

MISSOURI REAL ESTATE COMMISSION

STATUTES AND RULES



ISSUED BY:
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Dear Real Estate Licensee:

This booklet contains the laws and rules under which you must operate as a licensee. It is your responsibility to keep this copy of the statutes and regulations at your desk as a handy reference.

If you have any questions, contact the Commission office at (573) 751-2628.

The Commissioners

The last mailing of this booklet was in July 2000. Since that printing the following sections have been amended:

339.010 RSMo

339.090 RSMo

339.105 RSMo

339.151 RSMo

339.710 RSMo

339.720 RSMo

339.770 RSMo

4 CSR 250-5.020

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All license, permit and certificate applications shall contain the Social Security number of the applicant, RSMo 620.127

Auctioneers licenses, issued how, Chap. 343, RSMo

Board appointments, discrimination prohibited, RSMo 620.120

Disciplinary proceedings against persons or entities licensed, certified or registered by the division of professional registration, time limitations to commence action, exceptions, RSMo 620.154

Liens on commercial real estate broker, appraisers and title services, RSMo 429.600 to 429.630

Military service, exemption from certification requirements, RSMo 41.950

Professional corporation, services of real estate salesperson included as professional service to form corporation, RSMo 356.021

Psychologically impacted real property, defined, disclosure not required by seller, RSMo 442.600

Real estate malpractice insurance, assessment plan authorized, RSMo 383.010

Refusal to grant license, hearing by administrative hearing commission, procedure, RSMo 621.120

Revocation, effective July 1, 2003, all persons and business entities renewing a license with the Division of Professional Registration are required to have paid all state income taxes, and also are required to have filed all necessary state income tax returns for the preceding three years. If you have failed to pay your taxes or have failed to file your tax returns your license will be subject to immediate revocation within 90 days of being notified by the Missouri Department of Revenue of any delinquency or failure to file. This requirement was enacted in House Bill 600 of the 92nd General Assembly (2003), and was signed into law by the Governor on July 1, 2003.

Rules and regulations, occupations and professions, suspension and reinstatement procedure, RSMo 620.125

Suspension, in 1997 the legislature enacted sections 454.1000 through 454.1031, RSMo, setting forth a process for suspending professional licenses if a person has failed to pay court-ordered child support. In the 2003 legislative session, the General Assembly transferred the legal enforcement of these provisions directly to the Missouri Attorney General's Office, effective July 1, 2003. You should be aware that the Attorney General is now aggressively pursuing licensed professionals who are delinquent on child support obligations. Any failure to pay such obligations could result in the suspension of your license, following proceedings in circuit court.

Termite or wood-destroying insect inspection in real estate transactions, licensed applicator required, RSMo 281.116

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339.010. Definitions--applicability of chapter.

1. A "real estate broker" is any person, partnership, association or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, as a whole or partial vocation, does, or attempts to do, any or all of the following:
 - (1) Sells, exchanges, purchases, rents, or leases real estate;
 - (2) Offers to sell, exchange, purchase, rent or lease real estate;
 - (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
 - (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
 - (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
 - (6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
 - (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
 - (8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;
 - (9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;
 - (10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.
2. A "real estate salesperson" is any person, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned, as a whole or partial vocation. The provisions of sections 339.010 to 339.180 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.
3. The term "commission" as used in sections 339.010 to 339.180 means the Missouri real estate commission.
4. "Real estate" for the purposes of sections 339.010 to 339.180 shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and whether the real estate is situated in this state or elsewhere.
5. The provisions of sections 339.010 to 339.180 shall not apply to:
 - (1) Any person, partnership or corporation who as owner or lessor shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof, provided such owner or lessor is not engaged in the real estate business as a vocation;
 - (2) Any licensed attorney-at-law;
 - (3) An auctioneer employed by the owner of the property;
 - (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;
 - (5) Any person employed or retained to manage real property by, for, or on behalf of, the agent or the owner, of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:
 - (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;
 - (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;
 - (c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;
 - (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;
 - (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;
 - (f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;
 - (6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;
 - (7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;
 - (8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;
 - (9) Any newspaper or magazine or periodical of general circulation whereby the advertising of real estate is incidental to the operation of that publication or to any form of communications regulated or licensed by the Federal

Communications Commission or any successor agency or commission;

- (10) Any developer selling Missouri land owned by the developer if such developer has on file with the commission a certified copy of a currently effective statement of record on file with the Office of Interstate Land Sales pursuant to Sections 1704 through 1706 of Title 15 of the United States Code or a current statement from the Office of Interstate Land Sales of the United States Department of Housing and Urban Development approving the documentation (together with a copy of such documentation) submitted to that office with respect to real estate falling within the scope of subsection 1702(a)(10) of Title 15 of the United States Code;
- (11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:
 - (a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;
 - (b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or
 - (c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or
- (12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, web site, or other medium.

339.020. Brokers and salespersons, unlawful to act without license.

It shall be unlawful for any person, partnership, association or corporation, foreign or domestic, to act as a real estate broker or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

339.030. Business entities may be licensed, when, fee.

A corporation, partnership or association shall be granted a license when individual licenses have been issued to every member, partner or officer of such partnership, association or corporation who actively participates in its brokerage business and to every person who acts as a salesperson for such partnership, association or corporation and when the required fee is paid.

339.040. Licenses granted to whom--examination--qualifications--fee --temporary broker's license, when--renewal, requirements.

1. Licenses shall be granted only to persons who present, and corporations, associations or partnerships whose officers, associates, or partners present, satisfactory proof to the commission that they:
 - (1) Are persons of good moral character; and
 - (2) Bear a good reputation for honesty, integrity, and fair dealing; and
 - (3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.
2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180, the commission shall hold oral or written examinations at such times and places as the commission may determine.
3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.
4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.
5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least one year immediately preceding the date of application, or, in lieu thereof, shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.
6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.
7. The commission shall require every active broker, salesperson, officer or partner to present upon license renewal evidence that during the two years preceding he has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation, provide for individual waiver of this requirement.
8. Each entity that provides continuing education required under the provisions of subsection 7 of this section may make available videotapes and audiotapes of instruction courses that the entity conducts. The commission shall by rule set standards for the production of such taped courses, which may include the requirement that individuals purchasing such

tapes also purchase an accompanying written study document. The commission shall authorize individuals required to complete instruction under the provisions of this subsection to fulfill such continuing education requirements by utilizing such videotape and audiotape courses. The commission may by regulation require the individual completing such videotape or audiotape course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the taped course and approved by the commission.

9. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed partners or officers of a real estate partnership or corporation whereby the affairs of the broker, partnership, or corporation cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs of the broker, partnership or corporation under the supervision of the commission.

339.045. Real estate schools--accreditation--registration--fee, how determined.

1. An institution or organization desiring to conduct a school or offer a course of instruction to prepare persons to be licensed under this chapter, or to offer post-licensure courses, shall apply to the commission for accreditation, and shall submit evidence that it is prepared to carry out a prescribed minimum curriculum in real estate principles and practices and can meet other standards established by the commission. An investigation of the school and of the institution or organization with which such school is affiliated shall be made by the executive secretary or other authorized representative of the commission, who shall submit a written report of the investigation to the commission. If, in the opinion of the commission, the requirements for an accredited school for instruction in real estate principles and practices are met, the commission shall approve the school as an accredited real estate school upon payment of a fee in an amount to be set by the commission. All schools so accredited shall register at required intervals on a form provided and pay the required registration fee fixed by the commission.
2. The commission shall prescribe minimum curricula and standards for accreditation of real estate schools, courses of instruction preparing persons to be licensed under this chapter and courses offered for post-licensure credit.
3. From time to time as deemed necessary by the commission it shall be the duty of the commission through its executive secretary or other authorized representative to survey all accredited real estate schools operated in this state. If the commission determines that any accredited real estate school is not maintaining the standards required by the commission, notices thereof in writing specifying the defect or defects shall be given immediately to the school. The commission may file a complaint with the administrative hearing commission if a school fails to correct these conditions to the satisfaction of the commission within thirty days, or such longer period as may be authorized in writing by the commission. The hearing and any subsequent suspension or revocation of accreditation shall be governed by chapter 621, RSMo.
4. No member of the commission, nor any relative within the fourth degree of consanguinity or affinity, nor any member or employee of the commissioner's firm or business entity, shall have any economic interest in, receive remuneration from, or teach or solicit customers for any real estate school or courses of instruction as heretofore described in this chapter.

339.050. Form of application.

Applications for licenses shall be in writing, on blanks furnished by the commission, accompanied by such information and recommendations as it may require. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration.

339.060. Fees, amount, set how--term of licenses.

1. The commission shall set the amount of the fees which sections 339.010 to 339.180 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.010 to 339.180.
2. Every license granted under sections 339.010 to 339.180 shall be renewed each licensing period and the commission shall issue a new license upon receipt of the written application of the applicant and the required renewal fee.

339.070. Fees, collection and disposition--fund, source, use, transferred to general revenue, when.

1. All fees and charges payable under this chapter shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the "Real Estate Commission Fund". No money shall be paid out of this fund except by an appropriation by the general assembly. Warrants shall be issued monthly, upon the state treasurer out of this fund only, for the payment of the salaries and all necessary expenses of the commission. Vouchers for salaries and expenses shall be first approved by the commission. The total expense for every purpose incurred by the commission shall not exceed the total fees and charges collected and paid into the state treasury.
2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the

amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

339.080. Denial of application or license, when, notice--hearing.

1. The commission may refuse to examine or issue a license to any person known by it to be guilty of any of the acts or practices specified in subsection 2 of section 339.100, or to any person previously licensed whose license has been revoked, or may refuse to issue a license to any association or partnership of which such person is a member, or to any corporation of which such person is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.
2. Any person denied a license or the right to be examined shall be so notified by the commission in writing stating the reasons for denial or refusal to examine and informing the person so denied of his right to file a complaint with the administrative hearing commission in accordance with the applicable provisions of sections 621.015 to 621.198, RSMo, and the rules promulgated thereunder. All notices hereunder shall be sent by registered or certified mail to the last known address of the applicant.

339.090. License of nonresident--fee--reciprocity--rulemaking authority.

The commission may prescribe necessary rules and regulations pursuant to chapter 536, RSMo, to provide for the licensure of nonresidents. Such rules shall require the nonresident to pay a fee and may provide for licensure without examination if such reciprocity is extended to Missouri residents. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

339.100. Investigation of certain practices, procedure--subpoenas--formal complaints--revocation or suspension of licenses--digest may be published.

1. The commission may, upon its own motion, and shall upon written complaint filed by any person, investigate any business transaction of a person, partnership or corporation licensed under sections 339.010 to 339.180. In conducting such investigation, the commission shall have the power to hold an investigatory hearing to determine whether there is a probability that the licensee has performed or attempted to perform any act or practice declared unlawful pursuant to sections 339.010 to 339.180. In conducting such a hearing, the commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.
2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by law when the commission believes there is a probability that a licensee has performed or attempted to perform any of the following acts:
 - (1) Failure to maintain and deposit in a special account, separate and apart from his personal or other business accounts, all moneys belonging to others entrusted to him while acting as a real estate broker, or as escrow agent, or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;
 - (2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;
 - (3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his possession, which belongs to others;
 - (4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;
 - (5) Failure to deliver, immediately at the time of signing, a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his supervision or are within his control, including, but not limited to, the instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he may participate as a licensee;
 - (6) Acting for more than one party in a transaction without the knowledge of all parties for whom he acts, or accepting a commission or valuable consideration for services from more than one party in a real estate transaction without the knowledge of all parties to the transaction;
 - (7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections

- 339.010 to 339.180;
- (8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;
 - (9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;
 - (10) Obtaining a certificate or registration of authority, permit or license for himself or anyone else by false or fraudulent representation, fraud or deceit;
 - (11) Representing a real estate broker other than the broker with whom associated without the express knowledge and consent of that broker, or accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated;
 - (12) Using prizes, money, gifts or other valuable consideration as inducement to secure customers to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;
 - (13) Placing a sign on or advertising any property offering it for sale or rent without the consent of the owner or his duly authorized agent;
 - (14) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180, or of any lawful rule adopted pursuant to sections 339.010 to 339.180;
 - (15) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;
 - (16) Failure to submit all written bona fide offers to a seller when such offers are received prior to the seller accepting an offer in writing and until the licensee has knowledge of such acceptance;
 - (17) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;
 - (18) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, or demonstrates bad faith or gross incompetence;
 - (19) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;
 - (20) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180;
 - (21) Been finally adjudged insane or incompetent by a court of competent jurisdiction;
 - (22) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 who is not registered and currently eligible to practice under sections 339.010 to 339.180;
 - (23) Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.
3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate.
 4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

339.105. Separate bank escrow accounts required--service charges for account may be made by personal deposit by broker, amount allowed.

1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.
2. Each broker shall notify the commission of the name of his or her intent not to maintain an escrow account, or the name

of the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission. A broker shall notify the commission within ten business days of any change of his or her intent to maintain an escrow account, the financial institution, account numbers, or change in account status.

3. In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.
4. Whenever the ownership of any escrow moneys received by a broker pursuant to this section is in dispute by the parties to a real estate sales transaction, the broker shall report and deliver the moneys to the state treasurer within three hundred sixty-five days of the date of the initial projected closing date in compliance with sections 447.500 to 447.595, RSMo. The parties to a real estate sales transaction may agree in writing that the funds are not in dispute and shall notify the broker who is holding the funds.
5. A broker shall not be entitled to any money or other money paid to him or her in connection with any real estate sales transaction as part or all of his or her commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.
6. When, through investigations or otherwise, the commission has reasonable cause to believe that a licensee has acted, is acting or is about to act in violation of this section, the commission may, through the attorney general or any assistants designated by the attorney general, proceed in the name of the commission to institute suit to enjoin any act or acts in violation of this section.
7. Any such suit shall be commenced in either the county in which the defendant resides or in the county in which the defendant has acted, is acting or is about to act in violation of this section.
8. In such proceeding, the court shall have power to issue such temporary restraining or injunction orders, without bond, which are necessary to protect the public interest. Any action brought under this section shall be in addition to and not in lieu of any other provisions of this chapter. In such action, the commission or the state need not allege or prove that there is no adequate remedy at law or that any individual has suffered any economic injury as a result of the activity sought to be enjoined.

339.110. Refusal of licenses, when.

The commission may refuse to issue a license to any person who is known by it to have been found guilty of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, or other like offense, or to any association or partnership of which the person is a member, or to any corporation of which the person is an officer or in which as a stockholder the person has or exercises a controlling interest either directly or indirectly.

339.120. Commission, created--members, qualifications, terms, compensation--powers and duties--rulemaking authority, procedure.

1. There is hereby created the "Missouri Real Estate Commission", to consist of seven persons, citizens of the United States and residents of this state for at least one year prior to their appointment, for the purpose of carrying out and enforcing the provisions of sections 339.010 to 339.180. The commission shall be appointed by the governor with the advice and consent of the senate. All members, except one voting public member, of the commission must have had at least ten years' experience as a real estate broker prior to their appointment. The terms of the members of the commission shall be for five years, and until their successors are appointed and qualified. Members to fill vacancies shall be appointed by the governor for the unexpired term. The president of the Missouri Association of Realtors in office at the time shall, at least ninety days prior to the expiration of the term of the board member, other than the public member, or as soon as feasible after the vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five Realtors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Realtors shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The commission shall organize annually by selecting from its members a chairman. The commission may do all things necessary and convenient for carrying into effect the provisions of sections 339.010 to 339.180, and may promulgate necessary rules compatible with the provisions of sections 339.010 to 339.180. Each member of the commission shall receive as compensation an amount set by the commission not to exceed fifty dollars for each day devoted to the affairs of the commission, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The governor may remove any commissioner for cause.
2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 339.010 to 339.180 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 339.010 to 339.180, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 339.010 to 339.180. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of

the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The commission shall employ such board personnel, as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, as it shall deem necessary to discharge the duties imposed by the provisions of sections 339.010 to 339.180.
4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 339.010 to 339.180 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

339.125. Rulemaking procedure.

No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

339.130. Legal status of commission.

The commission may sue and be sued in its official name, and shall have a seal which shall be affixed to all licenses, certified copies of records and papers on file, and to such other instruments as the commission may direct, and all courts shall take judicial notice of such seal. Copies of records and proceedings of the commission, and of all papers on file in its office, certified under the said seal shall be received as evidence in all courts of record. The office of the commission shall be at Jefferson City.

339.150. No fee to be paid to unlicensed person--exception when broker refuses to pay for services rendered knowing the person was unlicensed, effect.

1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate sales person is required pursuant to sections 339.010 to 339.180, unless such a person is a licensed real estate salesperson or a licensed real estate broker as required by section 339.020, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri. Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.
2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.
3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate broker who shall refuse to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160.

339.151. No commission or consideration unless reasonable cause for payment or contractual relationship exists.

1. No licensee shall pay a commission or any other valuable consideration unless reasonable cause for payment exists or a contractual relationship exists with the licensee. Reasonable cause does not exist unless the party seeking the compensation or other valuable consideration actually introduces the business to the real estate licensee before a relationship is established between the licensee and a principal to the transaction, including, but not limited to:
 - (1) A subagency relationship;
 - (2) A transaction brokerage relationship; or
 - (3) A cooperative brokerage relationship.
2. It shall be a violation of this section to:
 - (1) Solicit or request compensation or other valuable consideration from a real estate licensee without reasonable cause;
 - (2) Interfere with a written representation relationship of another licensee or attempt to induce a customer or client to break a written representation agreement with another licensee for the purpose of replacing such agreement with a new representation agreement in order to obtain a commission or other valuable consideration. Interfering with the written representation agreement of another licensee includes, but is not limited to:
 - (a) Threatening to reduce or withhold employee relocation benefits or to take other action adverse to the interests

of a customer or client of a real estate licensee because of an existing representation agreement in order to obtain compensation or other valuable consideration; or

- (b) Counseling a customer or client of another real estate licensee on how to terminate or amend an existing relationship agreement in order to obtain a commission or other valuable consideration. Communicating corporate relocation policy or benefits to a transferring employee shall not be considered interference as long as the communication does not involve advice or encouragement on how to terminate or amend an existing relationship agreement.
- 3. The fact that reasonable cause to solicit or request a commission or other valuable consideration exists does not necessarily mean that a legal right to the commission or other valuable consideration exists.
- 4. Any violation of this section shall be grounds for investigation, complaint, proceedings and discipline pursuant to section 339.100.
- 5. Nothing in this chapter shall prevent any consumer from joining any organization in which one of the benefits of membership may be that such organization can negotiate a reduced rate or price for real estate costs for its members nor shall it prohibit an inducement to the buyer or lessee paid and supplied by the owner of the property directly to a buyer or lessee of the property.
- 6. Nothing in this section shall be construed to limit the ability of an employer to direct an employee to follow the terms of the relocation package provided for that employee, nor shall it be construed to limit an employer's choice of relocation service providers.

339.160. Real estate brokers and salespersons may not bring legal action for compensation unless licensed.

No person, partnership, corporation or association engaged within this state in the business or acting in the capacity of a real estate broker or real estate salesperson shall bring or maintain an action in any court in this state for the recovery of compensation for services rendered in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate without alleging and proving that such person, partnership, corporation, or association was a licensed real estate broker or salesperson at the time when the alleged cause of action arose.

339.170. Penalty for violation.

Any person or corporation knowingly violating any provision of sections 339.010 to 339.180 shall be guilty of a class B misdemeanor. Any officer or agent of a corporation, or member or agent of a partnership or association, who shall knowingly and personally participate in or be an accessory to any violation of sections 339.010 to 339.180, shall be guilty of a class B misdemeanor. This section shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state. The commission may cause complaint to be filed for violation of section 339.020 in any court of competent jurisdiction, and perform such other acts as may be necessary to enforce the provisions hereof.

339.180. Practice without a license--endangering welfare of others--injunction, procedure.

- 1. It shall be unlawful for any person not licensed under this chapter to perform any act for which a real estate broker or salesperson license is required. Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:
 - (1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required by this chapter upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or
 - (2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.
- 2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.
- 3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

339.600. Definitions--exempt businesses and persons acting as escrow agent for real estate.

- 1. As used in sections 339.600 to 339.610, the following terms mean:
 - (1) "Commission", the Missouri real estate commission;
 - (2) "Escrow agent", any person, partnership, association or corporation, foreign or domestic, who performs any of the following functions: closings or settlements or any function related thereto in sales, exchanges or other transfers of real property.
- 2. A person or entity who meets the definition of escrow agent as provided in subsection 1 of this section is exempt from the provisions of sections 339.600 to 339.610 if such person is:
 - (1) A person or entity doing business under the laws of this state or the United States as a bank, trust company, savings and loan association, credit union, commercial or consumer finance company, industrial loan company, insurance company or title insurance company or title insurance agency;
 - (2) An attorney at law;
 - (3) A person or entity licensed pursuant to this chapter rendering services in the performance of his or her duties as a

- real estate broker or salesperson;
- (4) A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or the United States Veterans' Administration or the Government National Mortgage Association or the United States Department of Housing and Urban Development or a successor of any of such agencies or entities, as an approved seller or servicer; or
 - (5) The United States, the state of Missouri or any state, any political subdivision of this state or any agency, division or corporate instrumentality thereof.

339.603. Registration with commission required to act as escrow agent--injunction ordered for unlawfully engaging in escrow activities.

1. It is unlawful for any person, partnership, association or corporation, foreign or domestic, to act as an escrow agent, or to advertise or attempt to act as such without being properly registered with the commission.
2. Upon application by the commission and upon proof by a preponderance of the evidence, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from unlawfully engaging or attempting to engage in the activities identified in sections 339.600 to 339.610.

339.605. Registration qualifications--application forms furnished by commission--grounds for refusal of registration.

1. A person, partnership, association or corporation, incorporated pursuant to the laws of Missouri, may be registered as an escrow agent pursuant to sections 339.600 to 339.610, if such person, partners of the partnership, members of the association or officers of the corporation are at least eighteen years of age, of good moral character and are competent to transact the business of an escrow agent in such manner as to safeguard the interest of the public. The commission shall require proof that such persons meet the qualifications as provided in this subsection.
2. A corporation, partnership or association may be registered if every partner of the partnership, every member of the association, or every officer of the corporation who actively participates in its escrow business has been registered and the corporation, partnership or association has paid all the required fees.
3. Applications for registration shall be submitted in writing on forms furnished by the commission and accompanied by such information and recommendations as the commission may require.
4. The commission may refuse to register any person, partnership, association or corporation if the person, partner, member or a direct or indirect controlling stockholder has been found guilty of, or pleaded guilty to, stealing, forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or any similar offense.

339.606. Rules authorized--duty of commission--fees, amount, how set.

The commission may promulgate rules and regulations and perform all duties necessary for carrying out the provisions of sections 339.600 to 339.610. The commission shall set the amount of the fees which are authorized pursuant to sections 339.600 to 339.610 by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.600 to 339.610.

339.607. Renewal every two years--renewal fee.

Each registration granted pursuant to sections 339.600 to 339.610 shall be renewed every two years and the commission shall issue a new registration upon receipt of a proper renewal application and the required renewal fee.

339.608. Escrow agent administration fund created--fees collected by commission deposited in fund--purpose of fund--lapse into general revenue, prohibited.

The fees collected pursuant to the provisions of sections 339.600 to 339.610 shall be collected by the Missouri real estate commission and shall be sent to the director of the department of revenue for deposit in the state treasury in the "Escrow Agent Administration Fund" which is hereby created. The commission shall administer the fund and shall use the moneys in the fund solely for the administration and enforcement of sections 339.600 to 339.610. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the fund at the end of the biennium shall not be transferred to the general revenue fund, but shall remain in the escrow agent administration fund.

339.610. Third-party expenses deposited by escrow agent, when--funds in escrow account to be expended, when.

Any funds received by an escrow agent from any person that are to be used for third-party expenses shall be deposited no later than five banking days after receipt in an escrow account in any federally insured bank, savings and loan association or credit union. The funds in such escrow account shall be expended for the intended use by the escrow agent within ninety days after the obligations of the third party have been completed.

339.612. Audit of escrow accounts and records--escrow agent liable to intended payee for misused funds--powers of commission to enforce.

The commission or its designated agent may inspect and audit the escrow accounts or accounting records of any escrow agent at any time during normal business hours to determine if escrow funds are being expended and disbursed in a timely fashion and for the intended use. If the commission determines that such escrow funds have been used for any purpose other than the intended purposes, the escrow agent is liable to the intended payee of the funds for any misappropriated funds and the Missouri real estate commission shall cause legal proceedings to be held in any court of competent jurisdiction to enforce

the provisions of this section and sections 339.610, 339.614, and 339.617. The commission's authority to instigate legal proceedings to enforce the provisions of this section is in addition to the authority to file a complaint with the administrative hearing commission.

339.614. Audit records to be available to escrow agent, not open to public, exception.

The records of any inspection or audit made pursuant to the authority in section 339.612 shall be made available to the escrow agent and the parties to the transaction but shall not be considered open to the public unless public money is directly involved or a court of competent jurisdiction orders that such records be opened.

339.617. Investigation and subpoena powers of commission--administrative hearing procedure--violations, registration cancellation, when.

1. The commission may, upon its own motion or upon a written complaint filed by any person, investigate any business transaction, regulated by the provisions of sections 339.600 to 339.610, of any person, partnership, association or corporation registered pursuant to the provisions of sections 339.600 to 339.610. The commission may use all investigatory and subpoena powers provided in section 339.100 in investigating such business transaction. The commission may file a complaint with the administrative hearing commission and the proceedings shall be conducted as provided in chapter 621, RSMo. If the administrative hearing commission finds that the escrow agent is not in compliance with sections 339.610 to 339.617 or is operating in an unsafe or unsound manner, the commission may cancel the registration of such escrow agent. If the registration of any escrow agent is canceled pursuant to this subsection, such escrow agent may not accept any referral of business which is regulated by the provisions of sections 339.600 to 339.610.
2. No real estate licensee may knowingly refer escrow or real estate closing business to any escrow agent which does not hold a current registration pursuant to sections 339.600 to 339.610.

339.710. Definitions.

For purposes of sections 339.710 to 339.860, the following terms mean:

- (1) "Adverse material fact", a fact related to the physical condition of the property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:
 - (a) Environmental hazards affecting the property;
 - (b) Physical condition of the property which adversely affects the value of the property;
 - (c) Material defects in the property;
 - (d) Material defects in the title to the property;
 - (e) Material limitation of the party's ability to perform under the terms of the contract;
- (2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;
- (3) "Agent", a person or entity acting pursuant to the provisions of this chapter;
- (4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;
- (5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:
 - (a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or
 - (b) Alter the designated broker's underlying contractual agreement with the client;
- (6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860;
- (7) "Commercial real estate", any real estate other than real estate containing one to four residential units, real estate on which no buildings or structures are located, or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;
- (8) "Commission", the Missouri real estate commission;
- (9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860 or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;
- (10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with a licensee;
- (11) "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;
- (12) "Designated broker", any individual licensed as a broker who is operating pursuant to the definition of "real estate broker" as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, association, limited liability corporation, or a corporation engaged in the real estate brokerage business to be responsible

- for the acts of the partnership, association, limited liability corporation, or corporation. Every real estate partnership, association, or limited liability corporation, or corporation shall appoint a designated broker;
- (13) "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;
 - (14) "Dual agency", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;
 - (15) "Dual agent", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;
 - (16) "Licensee", a real estate broker or salesperson as defined in section 339.010;
 - (17) "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;
 - (18) "Ministerial acts", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:
 - (a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;
 - (b) Responding to telephone inquiries from a person concerning the price or location of property;
 - (c) Attending an open house and responding to questions about the property from a consumer;
 - (d) Setting an appointment to view property;
 - (e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;
 - (f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;
 - (g) Describing a property or the property's condition in response to a person's inquiry;
 - (h) Showing a customer through a property being sold by an owner on his or her own behalf; or
 - (i) Referral to another broker or service provider;
 - (19) "Residential real estate", all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term "cooperative housing association" means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;
 - (20) "Single agent", a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:
 - (a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate transaction;
 - (b) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and
 - (c) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;
 - (d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;
 - (21) "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;
 - (22) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860, who:
 - (a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;
 - (b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or
 - (c) Assists another party to the same transaction either solely or through licensee affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

339.720. Licensee's duties and obligations in writing--licensee as transaction broker, exceptions.

1. A licensee's general duties and obligations arising from the limited agency relationship shall be disclosed in writing to the seller and the buyer or to the landlord and the tenant pursuant to sections 339.760 to 339.780. Alternatively, when engaged in any of the activities enumerated in section 339.010, a licensee may act as an agent in any transaction in accordance with a written agreement as described in section 339.780.
2. A licensee shall be considered a transaction broker unless:
 - (1) The designated broker enters into a written seller's agent or landlord's agent agreement with the party or parties to be represented pursuant to subsection 2 of section 339.780;
 - (2) The designated broker enters into a subagency agreement with another designated broker pursuant to subsection 5 of section 339.780;

- (3) The designated broker establishes a buyer's or tenant's agency relationship pursuant to subsection 3 of section 339.780;
 - (4) The designated broker enters into a written agency agreement pursuant to subsection 7 of section 339.780;
 - (5) The designated broker and the affiliated licensees are performing ministerial acts;
 - (6) The designated broker enters into a written dual agency agreement with the parties pursuant to subsection 4 of section 339.780;
 - (7) The designated broker is acting in a manner described in paragraph (c) of subdivision (22) of section 339.710 without proper notice of assumption of transaction broker status; or
 - (8) The licensee is making a listing presentation, which may include pricing and marketing advice about a potential future transaction, to a customer in anticipation of entering into a signed agency brokerage service agreement as a direct result of the presentation.
3. Sections 339.710 to 339.860 do not obligate any buyer or tenant to pay compensation to a designated broker unless the buyer or tenant has entered into a written agreement with the designated broker specifying the compensation terms in accordance with subsection 3 of section 339.780.
 4. A licensee may work with a single party in separate transactions pursuant to different relationships, including, but not limited to, selling one property as a transaction broker or a seller's agent working with that seller in buying another property as a buyer's agent, as a subagent or as a transaction broker if the licensee complies with sections 339.710 to 339.860 in establishing the relationships for each transaction.

339.730. Licensee as limited agent representing seller or landlord, duties--confidential information disclosure, when--licensee's duties to customer--showing alternative properties--subagent, duties.

1. A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:
 - (1) To perform the terms of the written agreement made with the client;
 - (2) To exercise reasonable skill and care for the client;
 - (3) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:
 - (a) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;
 - (b) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease;
 - (c) Disclosing to the client all adverse material facts actually known or that should have been known by the licensee; and
 - (d) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;
 - (4) To account in a timely manner for all money and property received;
 - (5) To comply with all requirements of sections 339.710 to 339.860, subsection 2 of section 339.100, and any rules and regulations promulgated pursuant to those sections; and
 - (6) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations.
2. A licensee acting as a seller's or landlord's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action shall arise against a licensee acting as a seller's or landlord's agent for making any required or permitted disclosure.
3. A licensee acting as a seller's or landlord's agent owes no duty or obligation to a customer, except that a licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the licensee. A seller's or landlord's agent owes no duty to conduct an independent inspection or discover any adverse material facts for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of any statement made by the client or any independent inspector.
4. A seller's or landlord's agent may show alternative properties not owned by the client to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the client.
5. A seller or landlord may agree in writing with a seller's or landlord's agent that other designated brokers may be retained and compensated as subagents. Any designated broker acting as a subagent on the seller's or landlord's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections 1 to 4 of this section.

339.740. Licensee representing head buyer or tenant--duties and obligations of--disclosure of confidential information--licensee's duty to a customer--showing of properties--subagents.

1. A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations:
 - (1) To perform the terms of any written agreement made with the client;
 - (2) To exercise reasonable skill and care for the client;
 - (3) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:

- (a) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek other properties while the client is a party to a contract to purchase property or to a lease or letter of intent to lease;
 - (b) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease;
 - (c) Disclosing to the client adverse material facts actually known or that should have been known by the licensee; and
 - (d) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;
 - (4) To account in a timely manner for all money and property received;
 - (5) To comply with all requirements of sections 339.710 to 339.860, subsection 2 of section 339.100, and any rules and regulations promulgated pursuant to those sections; and
 - (6) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations.
2. A licensee acting as a buyer's or tenant's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action for any person shall arise against a licensee acting as a buyer's or tenant's agent for making any required or permitted disclosure.
 3. A licensee acting as a buyer's or tenant's agent owes no duty or obligation to a customer, except that the licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the licensee. A buyer's or tenant's agent owes no duty to conduct an independent investigation of the client's financial condition for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of statements made by the client or any independent inspector.
 4. A buyer's or tenant's agent may show properties in which the client is interested to other prospective buyers or tenants without breaching any duty or obligation to the client. This section shall not be construed to prohibit a buyer's or tenant's agent from showing competing buyers or tenants the same property and from assisting competing buyers or tenants in attempting to purchase or lease a particular property.
 5. A client may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained and compensated as subagents. Any designated broker acting on the buyer's or tenant's behalf as a subagent shall be a limited agent with the obligations and responsibilities set forth in subsections 1 to 4 of this section.

339.750. Dual agent, consent--dual agent as limited agent--disclosure of nonconfidential information, when--nondisclosure of information, when--confidential information--no imputation of information.

1. A licensee may act as a dual agent only with the consent of all parties to the transaction. Consent shall be presumed by a written agreement pursuant to section 339.780.
2. A dual agent shall be a limited agent for both the seller and buyer or the landlord and tenant and shall have the duties and obligations required by sections 339.730 and 339.740 unless otherwise provided for in this section.
3. Except as provided in subsections 4 and 5 of this section, a dual agent may disclose any information to one client that the licensee gains from the other client if the information is material to the transaction unless it is confidential information as defined in section 339.710.
4. The following information shall not be disclosed by a dual agent without the consent of the client to whom the information pertains:
 - (1) That a buyer or tenant is willing to pay more than the purchase price or lease rate offered for the property;
 - (2) That a seller or landlord is willing to accept less than the asking price or lease rate for the property;
 - (3) What the motivating factors are for any client buying, selling, or leasing the property;
 - (4) That a client will agree to financing terms other than those offered; and
 - (5) The terms of any prior offers or counter offers made by any party.
5. A dual agent shall not disclose to one client any confidential information about the other client unless the disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action for any person shall arise against a dual agent for making any required or permitted disclosure. A dual agent does not terminate the dual agency relationship by making any required or permitted disclosure.
6. In a dual agency relationship there shall be no imputation of knowledge or information between the client and the dual agent or among persons within an entity engaged as a dual agent.

339.755. Duties and obligations of transaction broker.

1. A real estate licensee may provide real estate service to any party in a prospective transaction without an agency or fiduciary relationship to one or more parties to the transaction. Such licensee shall be called a transaction broker.
2. A transaction broker shall have the following duties and obligations:
 - (1) To perform the terms of any written or oral agreement made with any party to the transaction;
 - (2) To exercise reasonable skill, care and diligence as a transaction broker, including but not limited to:

- (a) Presenting all written offers and counteroffers in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent unless otherwise provided in the agreement entered with the party;
 - (b) Informing the parties regarding the transaction and suggesting that such parties obtain expert advice as to material matters about which the transaction broker knows but the specifics of which are beyond the expertise of such broker;
 - (c) Accounting in a timely manner for all money and property received;
 - (d) To disclose to each party to the transaction any adverse material facts of which the licensee has actual notice or knowledge;
 - (e) Assisting the parties in complying with the terms and conditions of any contract;
 - (f) The parties to a transaction brokerage transaction shall not be liable for any acts of the transaction broker.
3. The following information shall not be disclosed by a transaction broker without the informed consent of the party or parties disclosing such information to the broker:
- (1) That a buyer or tenant is willing to pay more than the purchase price or lease rate offered for the property;
 - (2) That a seller or landlord is willing to accept less than the asking price or lease rate for the property;
 - (3) What the motivating factors are for any party buying, selling or leasing the property;
 - (4) That a seller or buyer will agree to financing terms other than those offered;
 - (5) Any confidential information about the other party, unless disclosure of such information is required by law, statute, rules or regulations or failure to disclose such information would constitute fraud or dishonest dealing.
4. A transaction broker has no duty to conduct an independent inspection or investigation for adverse material facts for the parties.
5. A transaction broker has no duty to conduct an independent investigation of the buyer's financial condition.
6. A transaction broker may do the following without breaching any obligation or responsibility:
- (1) Show alternative properties not owned by the seller or landlord to a prospective buyer or tenant;
 - (2) List competing properties for sale or lease;
 - (3) Show properties in which the buyer or tenant is interested to other prospective buyers or tenants;
 - (4) Serve as a single agent, subagent or designated agent or broker, limited agent, disclosed dual agent for the same or for different parties in other real estate transactions.
7. In a transaction broker relationship each party and the transaction broker, including all persons within an entity engaged as the transaction broker if the transaction broker is an entity, are considered to possess only actual knowledge and information. There is no imputation of knowledge or information by operation of law between any party and the transaction broker or between any party and any person within an entity engaged as the transaction broker if the transaction broker is an entity.
8. A transaction broker may cooperate with other brokers and such cooperation does not establish an agency or sub-agency relationship.
9. Nothing in this section prohibits a transaction broker from acting as a single limited agent, dual agent or subagent whether on behalf of a buyer or seller, as long as the requirements governing disclosure of such fact are met.
10. Nothing in this section alters or eliminates the responsibility of a broker as set forth in this section for the conduct and actions of a licensee operating under the broker's license.
11. A transaction broker shall:
- (1) Comply with all applicable requirements of sections 339.710 to 339.860, subsection 2 of section 339.010 and all rules and regulations promulgated pursuant to such sections; and
 - (2) Comply with any applicable federal, state and local laws, rules, regulations and ordinances, including fair housing and civil rights statutes and regulations.
12. If any licensee who represents another party to the same transaction either solely or through affiliate licensees refuses transaction broker status and wants to continue an agency relationship with both parties to the transaction, such licensee shall have the right to become a designated agent or a dual agent as provided for in sections 339.730 to 339.860.
13. In any transaction a licensee may without liability withdraw from representing a client who has not consented to a conversion to transaction brokerage. Such withdrawal shall not prejudice the ability of the licensee or affiliated licensee to continue to represent the other client in the transaction or limit the licensee from representing the client who refused the transaction brokerage representation in another transaction not involving transaction brokerage.

339.760. Written agreement, adoption by designated broker, scope--brokerage relationships, limited.

- 1. Every designated broker shall adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities.
- 2. A designated broker shall not be required to offer or engage in more than one of the brokerage relationships enumerated in section 339.720.

339.770. Broker disclosure form for residential real estate transaction, provided by licensee, prior agreement, effect.

- 1. In a residential real estate transaction, at the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a written agreement for services as described in subdivision (5) of section 339.710, the licensee shall provide that per-

son with a written copy of the current broker disclosure form which has been prescribed by the commission.

2. When a seller, landlord, buyer, or tenant has already entered into a written agreement for services with a designated broker, no other licensee shall be required to make the disclosures required by this section.
3. Disclosures made in accordance with sections 339.710 to 339.860 shall be sufficient as a matter of law to disclose brokerage relationships to the public.

339.780. Brokerage services, written agreements for, parties to, authorizations by designated broker--written agreements, limited agency, single agent, dual agent or subagent.

1. All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker.
2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.
3. Before or while engaging in any acts enumerated in section 339.010, except ministerial acts defined in section 339.710, a designated broker acting as a single agent for a buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The agreement shall include a licensee's duties and responsibilities specified in section 339.740 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.
4. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a dual agent shall enter into a written agreement with the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The agreement shall include a licensee's duties and responsibilities specified in section 339.750 and the terms of compensation.
5. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a subagent shall enter into a written agreement with the designated broker for the client. If a designated broker has made a unilateral offer of subagency, another designated broker can enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client. If a designated broker has made an appointment pursuant to section 339.820, an affiliated licensee that has been excluded by such appointment may enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client.
6. A designated broker who intends to act as a transaction broker and who expects to receive compensation from the party he or she assists shall enter into a written transaction brokerage agreement with such party or parties contracting for the broker's service. The transaction brokerage agreement shall include a licensee's duties and responsibilities specified in section 339.755 and the terms of compensation.
7. Nothing contained in this section shall prohibit the public from entering into written contracts with any broker which contain duties, obligations, or responsibilities which are in addition to those specified in this section.

339.790. Commencement of agreement, when--duties after termination of agreement.

1. The relationships set forth in this section commence on the effective date of the real estate broker's agreement and continue until performance, completion, termination or expiration of that agreement.
2. A real estate broker and an affiliated licensee owe no further duty or obligation after termination, expiration, completion or performance of the brokerage agreement, except the duties of:
 - (1) Accounting in a timely manner for all money and property related to, and received during, the relationship; and
 - (2) Treating as confidential information provided by the client during the course of the relationship that may reasonably be expected to have a negative impact on the client's real estate activity unless:
 - (a) The client to whom the information pertains grants written consent;
 - (b) Disclosure of the information is required by law;
 - (c) The information is made public or becomes public by the words or conduct of the client to whom the information pertains or from a source other than the real estate brokerage or the affiliated licensee; or
 - (d) Disclosure is necessary to defend the designated broker or an affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee.

339.800. Compensation of designated broker, paid by whom, sharing compensation--payment establishing agency--agreement by seller or buyer on sharing compensation.

1. In any real estate transaction, the designated broker's compensation may be paid by the seller, the landlord, the buyer, the tenant, or a third party or by sharing the compensation between designated brokers.
2. Payment of compensation by itself shall not establish an agency relationship or transaction brokerage relationship between the party who paid the compensation and the designated broker or any affiliated licensee.
3. A seller or landlord may agree that a designated broker may share with another designated broker the compensation paid by the seller or landlord.
4. A buyer or tenant may agree that a designated broker may share with another designated broker the compensation paid by the buyer or tenant.
5. A designated broker may be compensated by more than one party for services in a transaction with the knowledge of

all the parties at or before the time of entering into a written contract to buy, sell, or lease.

339.810. Misrepresentation, client liability--licensee liability--liability for subagent, limited agent licensee liability--licensee as subagent, liability.

1. A client shall not be liable for a misrepresentation of such client's limited agent or subagent arising out of the limited agency agreement unless the client knew or should have known of the misrepresentation.
2. A client shall not be liable for a misrepresentation of such client's transaction broker arising out of the transaction broker agreement unless the client has actual knowledge of the misrepresentation.
3. A licensee who is serving as a limited agent or subagent of a client shall not be liable for misrepresentation of such licensee's client arising out of the brokerage agreement unless the licensee knew or should have known of the misrepresentation.
4. A licensee who is serving as a limited agent of a client shall not be liable for a misrepresentation of any subagent unless the licensee knew or should have known of the misrepresentation. A limited agent licensee shall not be liable for misrepresentation of an affiliated licensee unless such limited agent licensee knew or should have known of the misrepresentation.
5. A licensee who is serving as a subagent shall not be liable for a misrepresentation of the limited agent unless the subagent knew or should have known of the misrepresentation.
6. A licensee who is serving as a transaction broker shall not be liable for misrepresentation of such licensee's client arising out of the brokerage agreement unless the licensee had actual knowledge of the misrepresentation.

339.820. Limited agency agreement, listings or representing client, appointment of affiliated licensees.

1. A designated broker entering into a limited agency agreement with a client for the listing of property or for the purpose of representing that person in the buying, selling, exchanging, renting, or leasing of real estate may appoint in writing affiliated licensees as designated agents to the exclusion of all other affiliated licensees. A designated broker entering into a written transaction brokerage agreement with a party for the listing of property or for the purpose of assisting that person in buying, selling, exchanging, renting, or leasing of real estate may appoint in writing affiliated licensees as designated transaction brokers to the exclusion of all other affiliated licensees. If a designated broker has made an appointment pursuant to this section, an affiliated licensee assisting a party without a written agreement shall be presumed to be a transaction broker to the exclusion of all other affiliated licensees, unless a different brokerage relationship status has been disclosed to or established with that party.
2. A designated broker shall not be considered to be a dual agent or a transaction broker solely because such broker makes an appointment pursuant to this section, except that any licensee who personally represents both the seller and buyer or both the landlord and tenant in a particular transaction shall be a dual agent or a transaction broker and shall be required to comply with the provisions governing dual agents or transaction brokers.

339.830. Designated agents' and transaction brokers' duties to client--licensees' protections from liability.

1. All designated agents or designated transaction brokers to the extent allowed by their licenses shall have the same duties and responsibilities to the client and customer pursuant to sections 339.730 to 339.755 as the designated broker except as provided in section 339.820.
2. All licensees have the same protections from vicarious liability as provided in sections 339.710 to 339.860 as does their designated broker.
3. The provisions of this section and sections 339.710, 339.720, 339.755, 339.780, and 339.820 shall become effective January 1, 2000.

339.840. Supersession of agency law, no limitation of civil actions.

Sections 339.710 to 339.860 shall supersede the common law of agency with respect to whom the fiduciary duties of an agent are owed in a real estate transaction. Sections 339.710 to 339.860 shall not be construed to limit civil actions for negligence, fraud, misrepresentation or breach of contract.

339.850. Rules and regulations, promulgation, authority.

Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 339.710 to 339.860, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after January 1, 1999. All rulemaking authority delegated prior to January 1, 1999, is of no force and effect and repealed as of January 1, 1999, however nothing in this act* shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to January 1, 1999. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act* shall affect the validity of any rule adopted and promulgated prior to January 1, 1999.

**"This act" (H.B. 1601, et al., 1998) contains numerous sections. Consult Disposition of Sections table for definitive listing.*

339.855. Severability clause.

If any provision of sections 339.710 to 339.860 or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of sections 339.710 to 339.860 which can be given effect without the invalid provision or application and to such end the provisions of sections 339.710 to 339.860 are declared to be severable; however, nothing in this section shall be construed to affect the nonseverable grant of rulemaking authority in section 339.850.

**Title 4-DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250-Missouri Real Estate Commission**

Chapter 1-Organization and Description of Commission

4 CSR 250-1.010 General Organization

(1) The Missouri Real Estate Commission, an agency of the Division of Professional Registration of the Department of Economic Development created by Chapter 339, RSMo is responsible for the examination, licensing and regulation of persons and firms who engage in real estate business in this state as a vocation.

(2) The commission consists of seven (7) members who, except one (1) voting public member, must have had at least ten (10) years experience as a real estate broker. The members are appointed by the governor with the advice and consent of the senate. Each member is appointed to a term of five (5) years. One (1) of the members acts as chairman and one (1) of the members acts as vice chairman.

(3) The commission may do all things necessary to carry into effect the provisions of Chapter 339, RSMo and may promulgate from time-to-time necessary rules compatible with the provisions of that chapter.

(4) The commission shall hold regular meetings to review applications, complaints, investigations and audits as well as transact any necessary business as may properly come before it.

(5) Requests for general information, applications, complaint forms or copies of statutes and rules may be directed to the Missouri Real Estate Commission, 3605 Missouri Boulevard, P.O. Box 1339, Jefferson City, MO 65102, telephone (573) 751-2628, FAX number (573) 751-2777.

Chapter 2-General Rules

4 CSR 250-2.010 Definitions

(1) Words defined in section 339.010, RSMo shall have the same meaning when used in these rules.

(2) The following words shall be defined as stated:

- (A) Commission shall mean the Missouri Real Estate Commission;
- (B) License law shall mean Chapter 339, RSMo;
- (C) Association shall mean an unincorporated body of persons united and acting together for the prosecution of some common enterprise, but not a partnership; and
- (D) Residential property shall mean all real property improved by a structure which is used or intended to be used primarily for residential living by human occupants and which contains not more than four (4) dwelling units or which contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term cooperative housing association means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the

shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement.

(E) Commercial real estate shall mean any real estate other than real estate containing one to four (1-4) residential units, real estate on which no buildings or structures are located, or real estate classified as agricultural and horticultural property for assessment purposes as provided by section 137.016, RSMo. Commercial real estate does not include single family residential units including, condominiums, townhouses or homes in a subdivision when that real estate is sold, leased or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four (4) residential units.

(3) The singular number shall include the plural, the plural the singular and the use of any gender shall be applicable to all genders.

4 CSR 250-2.020 Commission Action

(1) Any act to be taken by the commission, pursuant to the license law or these rules, may be performed by such number of the commission's members or by the officers, employees, agents or representatives of the commission as is permitted by law and authorized by a majority of the commission's membership. The commission may take any authorized action by a mail ballot or by a conference telephone call and the action so taken shall be recorded in the minutes of the commission.

(2) Neither the director nor any other employee or agent of the commission, during the period of employment by the commission, shall engage in any act for which a license is required under the provisions of the license law or receive or become entitled to receive any fee or compensation of any kind, in any capacity whatsoever, either directly or indirectly, in connection with any real estate transaction. Nothing in this rule shall prohibit the executive director nor any employee or agent of the commission from being issued a license by the commission, so long as the license is held on an inactive status during the period of the holder's employment.

4 CSR 250-2.030 Records

(1) All records kept in the office of the commission, under the authority of the license law shall be open to public inspection under such regulations as the commission may prescribe, provided that records compiled in connection with the investigation of a complaint against a licensee which could result in discipline of the license or compiled for the purpose of processing applications for licensure, are deemed to be confidential and therefore not subject to inspection by the public.

(2) It shall be improper for a real estate commissioner to discuss with a licensee or any other person, except members of the commission's staff or counsel, any matter which is confidential, including one of a disciplinary nature which is pending before the Missouri Real Estate Commission or the Administrative Hearing Commission.

4 CSR 250-2.040 Disputes

(1) The commission will not enter into disputes between licensees concerning matters of commissions. The license law and these rules are designed to regulate the business conduct of licensees in the interest of the public and to discipline licensees when warranted. The commission has no authority to levy fines or award money damages, but, as a condition of probation, may order restitution be made to injured parties.

Chapter 3-Applications for License; License Examinations

4 CSR 250-3.010 Applications for License

(1) Licenses shall be granted only to persons who present, and corporations, associations or partnerships whose officers, associates or partners present, satisfactory proof to the commission that they are persons of good moral character; bear a good reputation for honesty, integrity and fair dealing; and are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

(2) All applications for license shall be made on forms approved by the commission and completed and signed by the applicant. The commission may deny issuance of a license to any applicant submitting an incomplete application or an application containing any false or misleading information or to any applicant failing to submit the correct fees with an application.

(3) Every application for original license shall be accompanied by proof acceptable to the commission that the applicant has met all applicable requirements of the license law and these rules, including but not limited to:

- (A) Proof of successful completion of the prescribed prelicense course in an accredited school prior to the date of examination and within six (6) months prior to the date the application for license is postmarked by a postal service; and
- (B) Proof of satisfactory completion of both portions of the required examination within six (6) months prior to the date the application for license is postmarked by a postal service.

(4) Applicants will have six (6) months after satisfactory completion of the required course of study within which to pass the required examination and apply for license. After six (6) months, credit for that course and examination will expire, and satisfactory completion of the required course and examination must be repeated before applying for license.

(5) The commission may require an applicant for a license to furnish a recent passport-type photograph and court documents, as well as any other information deemed necessary by the commission to determine the applicant's qualifications for a license.

(6) The commission reserves the right, at its discretion, to hold any application for a reasonable length of time for investigation.

4 CSR 250-3.020 License Examinations

(1) The form, content, method of administration, passing stan-

dards and schedule of written license examinations shall be determined by the commission and the date and place of examinations shall be announced as far in advance as is practicable. In conducting examinations, the commission may utilize professional computerized testing services.

(2) Fees payable by applicants for broker and salesperson license examinations shall be established by agreement with the commission and testing service administering the examination. Fees shall be paid as directed by the commission.

(3) No applicant shall be permitted to take any memoranda, pamphlet, book or paper into an examination room and otherwise shall be subject to the rules imposed by the administrator of the examination. If any applicant violates any rules imposed by the administrator while taking an examination such act shall be reason to deny issuance of a license to the applicant(s) involved.

Chapter 4-Licenses

4 CSR 250-4.010 Form and Contents

(1) The commission shall issue to each licensee a license in such form as shall be prescribed by the commission.

4 CSR 250-4.020 Expiration and Renewal; Name and Address Changes

(1) Every license issued and every license renewal for broker, corporation, broker-officer, partnership, broker-partner, association, broker-associate, broker-salesperson, professional corporation (broker-salesperson) and inactive broker licenses shall expire June 30 in every even-numbered year. Professional corporation (salesperson), salesperson and inactive salesperson licenses shall expire September 30 in every even-numbered year. The commission may mail to each licensee, at least thirty (30) days prior to license expiration, a notice of the expiration and an application for renewal of license to the licensee's address on file with the commission. The commission may issue a new license for each renewal period upon receipt of a properly completed renewal application, including proof of completion of the continuing education requirement pursuant to 4 CSR 250-10.010, and the biennial fee postmarked by a postal service before midnight of the date of expiration. Delinquent renewal applications must be accompanied by a delinquent fee of fifty dollars (\$50) per month or partial month elapsed since date of expiration, not to exceed a two hundred dollar (\$200) maximum delinquent fee. Any licensee who fails to complete continuing education requirements, in addition to paying delinquent fees as set out previously, must attend the prescribed prelicense course. A delinquent renewal application, accompanied by the required fees and proof of satisfactory completion of the prescribed course, must be postmarked by a postal service within six (6) months of course completion.

(2) Failure of a licensee to receive the notice and application to renew from the commission shall not excuse the licensee from the requirements for renewal contained in this rule. Any licensee who fails to renew during a subsequent renewal period is no longer licensed and in order to become licensed again will be required to complete the prelicense course, requalify by

examination and apply as if an original applicant. Until a new license is procured, the holder of an expired license shall not perform any act for which a license is required.

(3) A renewal license will not be issued until the license of the broker with whom the licensee is associated has been renewed.

(4) Within ten (10) days following a change in name or home address, each licensee shall notify the commission in writing.

4 CSR 250-4.030 Fictitious Name

(1) Any broker doing business under any name other than the broker's legal name or any entity doing business under any name other than the name registered with the secretary of state, shall first comply with the provisions of sections 417.200-417.230, RSMo on the registration of fictitious names and shall furnish the commission a copy of the registration within ten (10) days of receipt of the official registration from the secretary of state.

4 CSR 250-4.040 Individual License; Business Name; Inactive Brokers

(1) A broker shall not conduct business under any other name or at any other address than the one for which the broker's individual license is issued unless the broker first complies with 4 CSR 250-4.030. If a broker changes his/her name, home or business address, the broker shall notify the commission in writing within ten (10) days after the change becomes effective.

(2) When a broker returns his/her license to the commission, the broker must first comply with the provisions of 4 CSR 250-8.155. The broker shall have six (6) months in which to change status or reinstate the license. If the application to change status or reinstate the license is not made within the six (6)-month period, the applicant will be required to complete the required prelicense course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not reinstated or placed on inactive status within the subsequent renewal period, the licensee will be required to complete the prelicense course, requalify by examination and apply as if an original applicant.

(3) A broker may apply for inactive broker status. This request shall be on an application approved by the commission and shall be accompanied by the required fee. A license shall be issued to the broker clearly printed with the word inactive and the inactive broker shall not engage in any activity for which a license is required. An inactive broker license must be renewed biennially on or before June 30 of each renewal year. A licensee holding an inactive license as described in this rule will not be required to complete the continuing education requirement for license periods during which the license is inactive. A broker license which is inactive may not be reactivated until the licensee presents to the commission the proper application accompanied by the required fee and a certificate from a school accredited by the commission evidencing satisfactory completion, within the preceding six (6) months, of the broker course of study required by 4 CSR 250-6.020.

4 CSR 250-4.050 Broker-Salesperson and Salesperson Licenses; Transfers; Inactive Salespersons

(1) A broker whose license is in good standing and who elects to operate under the supervision of a licensed broker shall first comply with the provisions of 4 CSR 250-8.155. The broker shall surrender his/her license to the commission for conversion to a broker-salesperson license. A broker-salesperson license will be issued upon receipt of the properly completed application accompanied by the required fee. No individual holding a broker-salesperson license may have a salesperson licensed under him/her. A broker license may be reinstated upon proper application to the commission accompanied by the required fee.

(2) A broker-salesperson or salesperson license shall be issued only to a person who is associated with a licensed broker. The license of each broker-salesperson or salesperson shall be mailed to the broker. A broker-salesperson or salesperson cannot be licensed with more than one (1) broker during the same period of time.

(3) Within seventy-two (72) hours of the termination of the association of any broker-salesperson or salesperson, a broker shall notify the commission and shall return to the commission that licensee's license. The broker shall provide a dated and timed receipt to the licensee when the licensee submits a letter of termination to the broker. When a licensee's license is surrendered to the commission, the licensee shall have six (6) months in which to transfer to another broker or change license status. If the application for transfer or change in status is not made within the six (6)-month period, the applicant will be required to complete the required prelicense course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not transferred or placed on inactive status, or if no status change has been made within the subsequent renewal period, the licensee will be required to complete the prelicense course, requalify by examination and apply as if an original applicant.

(4) An original licensee or a licensee changing license status/type shall not be deemed to be entitled to engage in any activity for which a license is required until the new license is received by the broker or until written notification is received from the commission that the application is being processed. When a broker-salesperson or salesperson transfers from one broker to another without changing license type, the licensee shall be deemed transferred at the time the properly completed application is postmarked if all materials required to transfer are mailed under one (1) cover. The new broker is responsible for seeing that the application is complete and that the application for transfer is mailed by certified, registered or overnight delivery to ensure proof of delivery. If the application is deemed incomplete, the transfer will not be effective until the properly completed application is received by the commission.

(5) Upon termination of a licensee's association with a broker, the licensee shall return all property belonging to the broker, including, but not limited to all listing information acquired by the licensee in any manner during the licensee's association with the broker.

(6) A salesperson whose association with a broker is terminat-

ed may request the commission to transfer the license to an inactive status. The request shall be on an application approved by the commission and shall be accompanied by the required fee. A license shall be issued to the salesperson clearly printed with the word inactive and the inactive salesperson shall not be associated with a broker nor engage in any activity for which a license is required. An inactive salesperson license must be renewed biennially on or before September 30 of each renewal year. A licensee holding an inactive license as described in this rule will not be required to complete the continuing education requirement for license periods during which the license is inactive. A salesperson license which is in an inactive status may not be reactivated until the licensee presents to the commission a certificate from a school accredited by the commission evidencing satisfactory completion by that person, within the preceding six (6) months, of the salesperson course of study required by 4 CSR 250-6.020. The holder of an inactive salesperson license may be transferred to active status upon proper application to the commission accompanied by the required fee and the school completion certificate.

(7) A broker-salesperson whose association with a broker is terminated may request the commission to transfer the license to an inactive status and shall be subject to the provisions of 4 CSR 250-4.040(3).

4 CSR 250-4.070 Partnership, Association or Corporation License

(1) Every partnership, association or corporation must obtain a separate and distinct real estate broker license before transacting business as a broker pursuant to Chapter 339, RSMo. If the partnership, association or corporation wishes to do business under an assumed or fictitious name, it shall first comply with 4 CSR 250-4.030 regarding registration of the name.

(2) Before a broker license will be issued to a partnership, association or corporation, each partner in a partnership or each associate in an association or each officer of a corporation, who actively participates in the supervision of the real estate brokerage business of the firm, as defined in the license law, shall hold the appropriate broker license and each broker-salesperson or salesperson associated with the firm who engages in activities defined in the license law shall hold the appropriate license. In addition, each broker-partner, broker-associate or broker-officer shall retain a comparable position/title within the firm. An individual that maintains a salesperson license may also hold an officer title within a corporation.

(3) At the time of issuance of a partnership, association or corporation license, the applicant shall make application to the commission on a form approved by the commission which shall include the following:

- (A) The full name of the firm, the address of its principal place of business and a statement as to its form of organization;
- (B) The name, residence and business addresses of each partner in a partnership, or each associate in an association, or each officer of a corporation, licensed or unlicensed;
- (C) The name and business address of the broker-partner, broker-associate or broker-officer who has been designated by the firm as responsible for contact with the

commission on business of the firm and to whom the commission will address its correspondence;

- (D) The address of each branch office of the firm which engages in the activities outlined in Chapter 339, RSMo and the name of the person in charge of the business at that address;
- (E) If applying for a corporation license, a copy of the certificate of incorporation must be provided; and
- (F) A statement under oath that the information furnished is complete, true and correct in all respects and that the entity is currently in good standing with the secretary of state. The commission must be notified in writing within ten (10) days of every change in a partnership, association or corporation which changes any information furnished or causes the information to be incomplete. The designated broker for the firm shall be responsible for the notification.

(4) A change in the name of a partnership, association or corporation shall require the filing of a new application with the commission accompanied by the required fee, the previously issued license and documentation from the secretary of state acknowledging the name change.

(5) A person qualifying for or renewing a broker license as a partner, associate or officer in a licensed firm shall be issued a license as a broker-partner, broker-associate or broker-officer, as the case may be. At the request of the holder, any such license in good standing may be converted by the commission to an individual broker, broker-salesperson or inactive broker license on a form approved by the commission and accompanied by the required fee.

(6) Any person who qualifies as a broker may also be licensed as a broker-officer, broker-associate or broker-partner or any combination of the four (4) types of broker licensure.

(7) The holder of a broker-partner, broker-associate or broker-officer license is not required to maintain a separate escrow or trust account while affiliated with a licensed entity.

(8) When a broker-partner, broker-associate or broker-officer license is returned to the commission, the licensee shall have six (6) months in which to change status or reinstate the license. If the application to change status or reinstate the license is not made within the six (6)-month period, the applicant will be required to complete the required prelicense course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not reinstated or placed on inactive status within the subsequent renewal period, the licensee will be required to complete the prelicense course, requalify by examination and apply as if an original applicant.

4 CSR 250-4.075 Professional Corporations

(1) Only salespersons and broker-salespersons who are licensed to render the services mentioned in section 339.010.2, RSMo may be licensed as professional corporations.

(2) All applications for licensure as a professional corporation shall be subject to the provisions of 4 CSR 250-3.010 and all applicable provisions of Chapter 339, RSMo.

(3) Before a professional corporation license will be issued, the proposed corporate name must be approved by the commission. The applicant shall file with the commission an application for name approval accompanied by the required fee.

(4) All professional corporation licenses shall be issued in the name of the salesperson or broker-salesperson to whom the license is issued. No fictitious names will be accepted. The name shall contain the words Professional Corporation or the abbreviation P.C. and the licensee shall use that designation in the course of rendering any professional service.

(5) All stock or shares in a professional corporation must be held by the salesperson or broker-salesperson to whom the professional corporation license is issued.

(6) At the time of issuance of a license to a professional corporation, the applicant or licensee shall file with the commission an application, accompanied by the required fee and the certificate of incorporation.

(7) Upon dissolution of a licensed professional corporation, the professional corporation is subject to the provisions of 4 CSR 250-4.050.

4 CSR 250-4.080 Nonresident Licenses; Reciprocity; Process Agent

(1) A nonresident person, partnership, association or corporation seeking a license to engage in the real estate business in Missouri shall first apply for an appropriate license on a form provided by the commission accompanied by the required fee.

(2) The commission may issue a nonresident broker license to an individual who is licensed as a broker in the state of domicile, provided the commission is furnished a certification from the licensing authority of the state of domicile that the license is in good standing. The nonresident certification must be issued within three (3) months of application for a Missouri license. An individual applicant for a nonresident broker license who is not licensed as a broker in the state of domicile may be granted a nonresident license upon submitting satisfactory proof of intent to maintain the principal place of business in Missouri.

(3) The commission may issue a nonresident license to an individual who is licensed in the state of domicile, provided the commission is furnished a certification from the licensing authority of the state of domicile that the license is in good standing. The nonresident certification must be issued within three (3) months of application for a Missouri license. Every licensed nonresident shall be associated with a licensed Missouri broker.

(4) The commission may issue a nonresident broker license to a partnership, association or corporation organized and licensed as a real estate broker under the laws of another state, provided the commission is furnished a certification from the nonresident licensing authority that the entity is in good standing; provided further that a nonresident firm shall furnish proof to the commission that it has complied with all applicable laws with respect to qualifying to do business in this state. The nonresident certification must be issued within three (3) months of application for a Missouri license.

(5) The commission may issue a nonresident professional corporation license to a professional corporation organized and licensed as a real estate professional corporation under the laws of another state, provided the commission is furnished a certification from the nonresident licensing authority that the license of the professional corporation is in good standing. A nonresident professional corporation shall furnish proof to the commission that it has complied with all applicable laws with respect to qualifying to do business in this state.

(6) In addition to the specific requirements set forth in this rule, every applicant for a nonresident license must meet all requirements applicable to Missouri residents and domestic firms applying for the same type of license. After licensure, a nonresident licensee shall be subject to and shall comply with all provisions of the license law and these rules.

(7) The commission may waive the examination prescribed by the license law for a non-resident individual duly licensed in any other state under the laws of which a similar exemption is extended to licensees of Missouri, provided a written agreement for reciprocal licensing exists between the licensing authorities of the states involved.

(8) A nonresident licensee who has been actively licensed in another state for twelve (12) of the preceding eighteen (18) months prior to date of application for the examination will be required to take the complete examination. The prelicense education requirement will be waived for a one (1)-time sitting of the examination but the continuing education requirement will remain in effect. If the candidate fails to pass both portions of the examination, the candidate will be required to meet the education requirement prior to retaking the entire examination. Certification from the state of residence must be submitted with the application for license. Each application for a nonresident broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission prior to application for the broker examination.

(9) A nonresident licensee who has successfully passed the examination in another state will be required to complete the prelicense education requirement and take only the state portion of the examination if application for licensure is received within six (6) months of licensure in the other state. A certification from the nonresident licensing authority must be submitted with the application for license. The certification must be issued within three (3) months of application for a Missouri license.

(10) Before the commission shall issue a non-resident license, it shall require the nonresident to file with the commission an irrevocable consent that actions may be commenced against the nonresident in the proper court of any county in this state in which the cause of action shall arise or in which the plaintiff may reside, by service of process on the director of the Missouri Real Estate Commission and stipulating and agreeing that the service shall be taken and held in all such courts to be as valid and binding as if due service had been made upon the nonresident. The consent shall be authenticated by the acknowledged signature of the nonresident. Upon service, the director shall mail to the nonresident licensee at the last known address a notice of the service of process and a copy of the summons and petition. The mailing shall be by registered or certified mail requesting a return receipt signed by the

addressee only. The director shall inform the clerk of the court out of which the summons was issued that the summons and petition were mailed to the nonresident licensee as described and shall forward to the clerk the return receipt showing delivery of the registered mailing.

(11) Any individual broker not residing in this state and not holding a valid real estate broker's license in the state of domicile must place the license in this state on inactive status during the period of absence from this state or request the license be placed with a Missouri licensed broker.

Chapter 5-Fees

4 CSR 250-5.010 Payment

(1) All fees shall be paid by personal check, cashier's check or money order made payable to the Missouri Real Estate Commission. All fees are nonrefundable.

(2) No license fee or portion of the license fee will be refunded should any license be surrendered, suspended or revoked during the term for which the license is issued.

4 CSR 250-5.020 Application and License Fees

(1) An application fee of fifty dollars (\$50) in addition to the original issuance fee shall be paid upon original application for a broker or salesperson license to defray the expense of processing and investigating the application.

(2) The following fees shall be paid for original issuance:

- (A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson\$ 80.00
- (B) Salesperson.....\$ 40.00
- (C) Partnership, Association, Corporation or Professional Corporation.....\$ 80.00
- (D) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation.....\$150.00 and
- (E) Nonresident Salesperson\$100.00.

(3) The following fees shall be paid for renewal of licenses:

- (A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson\$ 50.00
- (B) Salesperson or Inactive Salesperson\$ 40.00
- (C) Partnership, Association, Corporation or Professional Corporation.....\$ 50.00
- (D) Delinquent Fee.....\$ 50.00 (per month or partial month elapsed since date of expiration not to exceed a maximum delinquent fee)\$200.00
- (E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation\$150.00 and
- (F) Nonresident Salesperson and Inactive Salesperson\$100.00

(4) The following fees shall be paid for the appropriate transactions:

- (A) Transfer/Status Change.....\$ 50.00
- (B) Replacement of a Lost, Destroyed or Stolen License\$ 25.00
- (C) Certification of Licensure\$ 10.00 and
- (D) Professional Corporation Name ApprovalFee \$ 10.00.

4 CSR 250-5.030 Miscellaneous Fees

(1) The following miscellaneous fees for certain services rendered by the Missouri Real Estate Commission are as follows:

- (A) Photocopy Fee-public records (per page).....\$ 0.25;
- (B) Document Search Fee-public records (per hour)\$ 20.00; with a minimum fee of\$ 5.00; and
- (C) Access Fee-public records maintained on computer facilities, recording tapes or discs, video tapes or films, pictures, slides, graphics, illustrations or similar audio or visual items or devices actual cost of reproduction plus document search fee of (per hour).....\$ 20.00; with a minimum fee of.....\$ 5.00.

(2) Payment of any copying fees and search fees may be required before any information will be provided.

Chapter 6-Educational Requirements

4 CSR 250-6.010 Course of Study Required

(1) To meet the educational requirements prescribed in the license law, all persons who apply to take the examination for a salesperson or broker license shall present with their application a certificate from a school accredited by the commission evidencing satisfactory completion of a course of study in real estate subjects as set out in 4 CSR 250-6.020.

(2) Applicants will have six (6) months after satisfactory completion of the required course of study within which to pass the required examination and apply for license. After six (6) months, credit for that course and examination will expire, and satisfactory completion of the required course and examination must be repeated before applying for license.

(3) In lieu of twelve (12) months of experience as an actively licensed salesperson during the eighteen (18) months immediately preceding application for the examination, the required course of study for the broker license examination shall consist of a minimum of forty-eight (48) hours of classroom instruction in subjects set out under 4 CSR 250-6.020.

(4) No person shall receive credit for satisfactory completion of the prescribed forty-eight (48)-hour broker course without first having passed the salesperson license examination.

(5) The required course of study for the salesperson license examination shall consist of a minimum of sixty (60) hours of classroom instruction in subjects set out under 4 CSR 250-6.020.

(6) Separate courses are to be held in salesperson and broker courses of study. A student enrolled in a salesperson course shall not receive credit for attending any portion or all of a broker course. A student enrolled in a broker course shall not receive credit for attending any portion or all of a salesperson course.

4 CSR 250-6.020 Content of Prelicense Courses

(1) The following topics must constitute the curriculum of accredited salespersons and broker prelicense courses. Topics to be taught only in the broker prelicense course are followed by "B":

- (A) Missouri License Law and Rules and Regulations;
- (B) Listing Property.
 - 1. Listing.
 - A. Hidden defects.
 - B. Listing agreement signatures by all parties.
 - C. Tax assessment and tax rate.
 - D. Deed restrictions and covenants.
 - E. Legal description.
 - F. Lot size.
 - G. Physical dimensions of structure.
 - H. Appurtenances (for example, easements, water rights).
 - I. Utilities.
 - J. Type of construction.
 - K. Encumbrances (for example, liens, restrictions).
 - L. Compliance with health and safety building codes.
 - M. Ownership of record.
 - N. Homeowner's association bylaws and fees.
 - O. Brokerage fee.
 - 2. Assessment of property value.
 - A. Location.
 - B. Anticipated changes (for example, in zoning or use).
 - C. Depreciation.
 - D. Deterioration.
 - E. Obsolescence.
 - F. Improvements.
 - G. Economic trends.
 - 3. Property valuation.
 - A. Sales comparison approach.
 - B. Income approach.
 - C. Replacement cost estimate.
 - D. Gross rent multiplier approach.
 - E. Appropriate listing price recommendations for seller.
 - F. Need for independent appraisal.
 - 4. Nature of real property.
 - A. Property subdivision and selling of parcels.
 - B. Real and personal property included in, or excluded from, the sale (for example, land, minerals, water, crops, fixtures).
 - C. Differences between personal and real property.
 - D. Forms of ownership interests in real estate and issues related to conveyance of real property (for example, tenancy and partnership).
 - E. Methods of land description (for example, government survey, recorded maps, recorded instruments, metes and bounds, and lot division).
 - F. Interests in real property (for example, freehold

and nonfreehold).

- G. Planning and zoning (variance and zoning changes), including special study zones (for example, flood, geological hazards).
- 5. Services provided in the agency relationship with the seller.
 - A. Agency, responsibility of an agency, and services the agency will provide.
 - B. Net proceeds estimation.
 - C. Listing agreements, documents provided to seller.
 - D. Safeguarding property (for example, lockbox).
 - E. Methods of improving marketability of property (for example, landscaping).
 - F. Property marketing (advertise and show), keeping seller informed.
 - G. Property files (for example, surveys and maps).
 - H. Civil rights and fair housing policy;
- (C) Selling Property.
 - 1. Contracts and offers.
 - A. Sales contract forms and provisions (including options).
 - B. Offers and counteroffers.
 - 2. Characteristics of real property.
 - A. Rights of ownership.
 - B. Characteristics of residential property.
 - C. Characteristics of commercial property.
 - D. Characteristics of industrial property.
 - E. Right of property subdivision.
 - F. Planning and zoning (variance and zoning changes), including special study zones (for example, flood, geological hazards).
 - 3. Agency.
 - A. Agency relationship to buyers (for example, buyer brokerage).
 - B. Material facts (for example, taxes, zoning, building codes or other land use restrictions).
 - C. Physical condition of property (for example, defects and environmental hazards).
 - D. Psychological impact related to property (for example, disclosure of murder, suicide).
 - 4. Advising buyers of outside services.
 - A. Income tax implications of home ownership.
 - B. Income tax implications for real estate investments.
 - C. Need for buyer to seek legal counsel.
 - D. Home protection plans (warranty).
 - E. Insurance (for example, fire, hazard, liability).
 - F. Inspection reports (for example, structural, pest, well, septic, soil).
 - G. Surveys.
 - H. Appraisals.
 - 5. Services provided to the buyer.
 - A. Information needed to assess prospective buyer's price range and eligibility for financing.
 - B. Qualify prospective buyers.
 - C. Preview and choose property to show buyer.
 - D. Current market conditions.
 - E. Show properties and note amenities.
 - F. Affirmative marketing to assure equal opportunity.
 - G. Civil rights and fair housing laws;
- (D) Property Management.
 - 1. Services to landlords.

- A. Advertising property.
 - B. Evaluating rental market.
 - C. Obtaining tenants.
 - D. Screening applicants according to appropriate laws and regulations.
 - E. Tenant complaints and conflicts among tenants.
 - F. Maintaining fiduciary responsibilities to owners.
 - G. Income, expenses and rate of return for property.
 - H. Federal reporting requirements.
 - I. Federal fair housing laws.
 - J. Maintenance.
 - K. Fees, security deposits and rent collection.
 - L. Negotiating property management agreements.
- "B"
- M. Operating budgets. "B"
 - N. Trust accounts. "B"
 - O. Owners' financial statements. "B"
 - P. Environmental hazards. "B"
 - Q. Eviction proceedings. "B"
2. Services to tenants.
- A. Lease agreements used in property management.
 - B. Rental and lease agreements (including options).
 - C. Material facts.
 - D. Show property to prospective tenants.
 - E. Occupancy terms.
 - F. Proration of rents and leases;
- (E) Settlement/Transfer of Ownership.
1. Tax issues.
- A. Tax implications of interest expenses.
 - B. Real property taxes.
 - C. One (1)-time lifetime exemption from capital gains tax for persons age fifty-five (55) or older.
 - D. Refinancing.
 - E. Property taxation (for example, ad valorem and special assessments).
 - F. Capital improvements (effect on tax basis). "B"
2. Titles.
- A. Title search.
 - B. Title insurance (owner's and mortgagee's).
 - C. Title problems.
 - D. Legal procedures (for example, quiet title, foreclosure, bankruptcy, declaratory judgment).
 - E. Title abstracts.
 - F. Liens (for example, mortgages, trust deeds, construction/mechanic's liens, judgments by court) and order of priority.
 - G. Legal proceedings against property (for example, attachments, notice of pending legal action).
 - H. Methods of recording.
3. Settlement procedures.
- A. Purposes and procedures of settlement.
 - B. Federal statutory requirements.
 - C. Real Estate Settlement Procedures Act (RESPA).
 - D. Closing statements (for example, calculate amount owed by buyer, net to seller).
 - E. Rescission clauses.
 - F. Obligations of settlement agent.
 - G. Calculations regarding proration/prepayment.
 - H. Warranties associated with deeds (for example, grant, warranty and quitclaim deeds).
 - I. Settlement statement (HUD-1).
 - J. Other settlement documents (for example, deed, bill of sale, note, deed of trust).
- K. Transfer tax.
4. Characteristics of real property.
- A. Ways of holding and conveying title, and characteristics of the different approaches to tenancy (for example, joint tenancy, tenancy in common, tenancy by entirety, severalty).
 - B. Rights of home ownership (for example, homestead).
 - C. Rights of others related to property (for example, adverse possession, adjoining owners, encroachments).
 - D. Nature and types of common interest ownership (for example, condominiums, planned unit development, cooperatives, townhouses, time-share).
 - E. Eminent domain proceedings (for example, condemnation).
5. Additional services.
- A. Negotiations between buyers and sellers leading to agreement.
 - B. Contract requirements and fulfillment of contingencies leading to closing.
 - C. Fair housing laws.
 - D. Securities laws, providing appropriate referrals.
 - E. Other situations where experts are required (for example, financial and legal);
- (F) Financing.
1. Sources of financing.
- A. Institutional (for example, savings & loans, banks, mortgage brokers).
 - B. Seller financing (for example, land contract, purchase money mortgage).
 - C. Assumption of existing financing.
 - D. Other sources of financing.
2. Types of loans.
- A. Security for loans (for example, trust deeds, land contracts, mortgages).
 - B. Repayment methods (for example, adjustable rate mortgage, fully/partially/non-amortized/renewed rate).
 - C. Forms of financing (for example, FHA, VA, FmHA, conventional).
 - D. Secondary mortgage markets (for example, FNMA, FHLMC, GNMA).
 - E. Other types of mortgage loans (for example, wraparound, blanket and package).
3. Terms and conditions.
- A. Loan application requirements.
 - B. Loan origination costs (for example, appraisal fee, credit reports, points).
 - C. Lender requirements (for example, property insurance, escrow deposits, under-writing criteria).
 - D. Conditional approval.
 - E. Provisions of federal regulations (for example, Truth-in-Lending Act, Equal Credit Opportunity Act).
4. Common clauses and terms in mortgage instruments.
- A. Prepayment.
 - B. Interest rates (for example, fixed and adjustable rates).
 - C. Release.

- D. Due-on-sale.
 - E. Subordination.
 - F. Escalation.
 - G. Acceleration.
 - H. Default.
 - I. Foreclosure and redemption rights.
 - J. Nonrecourse provision; and
- (G) Professional Responsibilities/Fair Housing Practice.
1. Professional responsibilities and fair practice.
 - A. Legal responsibilities of a sales-person under the law of agency (for example, single agency, consensual dual agency, limited agency).
 - B. Laws, rules and regulations pertaining to real estate practice, including fair housing and civil rights (for example, ADA).
 - C. Market trends, availability of financing, rates and conditions of obtaining credit.
 - D. Resolving misunderstanding among parties to real estate transactions.
 2. Administration.
 - A. Terms of contract between salesperson(s) and broker (for example, employee or independent contractor).
 - B. Complete and accurate records of all business transactions.
 - C. Required notifications and reports of the real estate agency.
 - D. Company policies, procedures and standards.
 - E. Determining commissions for brokerage agreements and closing statements.
 - F. Trust accounts. "B"
 - G. Recruiting and training salesforce. "B"
 - H. Personnel records. "B"
 - I. Commission distribution. "B"
 - J. Profit and loss statements. "B"
 - K. Accounting procedures for the office. "B"
 - L. General insurance for the office. "B"

4 CSR 250-6.040 General

(1) For the purpose of the course offerings listed in 4 CSR 250-6.020 an hour means sixty (60) minutes, at least fifty (50) minutes of which shall be devoted to actual classroom instruction and no more than ten (10) minutes of which shall be devoted to a recess. Times allotted for supervised examinations may be regarded as hours of instruction. In any given calendar day, no course(s) shall exceed eight (8) hours in length, and a half hour break or more, must be given to students after four (4) hours for any course(s) exceeding four (4) hours in a given day.

(2) A certificate of satisfactory completion shall not be issued to any student who fails to attend one hundred percent (100%) of the required classroom hours of study. A school, at its discretion, may allow a student to be absent up to ten percent (10%) of the required hours, but only for reasons of personal illness, illness or death in the student's immediate family or hazardous road conditions.

4 CSR 250-6.050 Correspondence Courses

(1) Correspondence courses meeting the subject matter requirements and offered by schools accredited by the commission may be taken by any person who, by reason of hard-

ship, cannot attend a school for classroom instruction. Hardship shall be deemed to exist in the case of any individual who does not live within a radius of fifty (50) miles of an accredited school currently offering the required course, or who cannot attend a school because of physical disability or by reason of other circumstances approved by the commission.

(2) Any person desiring to complete the required course of study by correspondence shall make a written request to the commission setting forth an explanation and verification of the hardship. The commission may require a request for correspondence study to be supported by affidavits of doctors or other persons having knowledge of the applicant's circumstances.

Chapter 7-Schools

4 CSR 250-7.010 Standards for Accreditation

(1) A school offering approved real estate courses for licensure examination in Missouri will be accredited by the commission upon compliance with the following requirements:

- (A) The courses of study offered by the school shall include the subjects set forth in 4 CSR 250-6.020;
- (B) Each person involved directly or indirectly in the sponsorship of the school or who participates or has an interest, financial or otherwise, in its operation, shall be at least twenty-one (21) years of age and a person of integrity, responsibility and good moral character;
- (C) Each school shall be supervised by an administrator, accredited by the commission, who shall supervise and be in responsible charge of its operation and programs. The administrator shall be qualified through education, training and experience to administer a real estate course of study, to evaluate course content and instructors, and to analyze examinations. An accredited administrator shall attend, or assign an accredited instructor to attend, all annual or semiannual educators meetings scheduled by the commission;
- (D) Each area of study shall be conducted and supervised by an instructor who shall be present in the classroom at all times. Each instructor shall be qualified by specialized preparation, training and experience to ensure competent instruction. In order to renew accreditation, each instructor must verify satisfactory completion of at least six (6) hours of classroom instruction in the education of adult learners within the immediately precedent school accreditation period. Any course offered in satisfaction of this requirement must be made available to all accredited instructors and must have been approved by the commission prior to being offered. The qualifications of each instructor must be approved by the commission prior to his/her participation in a course of study. As a minimum requirement, each instructor shall-
 1. Be an attorney-at-law with experience in the areas of study to be taught;
 2. Hold a degree from an accredited college or university with evidence of having completed courses in real estate subjects;
 3. Be a licensed Missouri real estate broker with at least five (5) years of continuous, verifiable, active experience next preceding the date of application for

- approval in the areas of study to be taught; or
4. Have verifiable practical experience in all areas of study to be taught which, in the opinion and discretion of the commission, is substantially equivalent to the previous requirements;
- (E) All audio or visual teaching aids employed by a school must be used under the personal supervision of the instructor approved to conduct the course and may not exceed twenty percent (20%) of the total course presentation. Unaccredited guest speakers may not be used for more than ten percent (10%) of a course presentation;
- (F) Physical Aspects of Building.
1. A school seeking accreditation shall furnish to the commission an affidavit setting forth the name of the owner of the premises to be utilized. If the premises are leased, the school shall furnish a copy of the lease and an affidavit executed by the lessor that the lease is in good standing.
 2. The school premises, equipment and facilities shall comply with all applicable city, county and state regulations, zoning laws, and fire, building and sanitary codes. Facilities and support personnel shall be adequate to implement the school program and shall be subject to inspection by authorized representatives of the commission prior to accreditation and subsequent to inspection during regular school hours;
- (G) The school shall enter into a written contract with each student specifying the course of study to be offered, the tuition to be charged, the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship, any additional fee to be charged for supplies, materials or books which become the property of the student upon payment and such other matters as are material to the relationship between the school and the student;
- (H) Record Maintenance.
1. Each school shall maintain for each student a record which shall include the course of instruction undertaken, dates of attendance and areas of study completed satisfactorily. Each student's record shall be maintained by the school for a minimum of one (1) year and shall be available for inspection by the student or by the commission or its authorized agent during regular school hours.
 2. Each school shall furnish to the commission the school policy and regulations relative to its required standards for the issuance of a certificate of satisfactory completion, its conditions for dismissal of a student and for reinstatement of those students dismissed for unsatisfactory completion.
 3. The school shall issue to each student who satisfactorily completes the prescribed course of study a certificate of satisfactory completion, in duplicate, on a form prescribed by the commission; and
- (I) Advertising and Publicity.
1. No advertisement, pamphlet, circular or other advertising material pertaining to an accredited school may be circulated or distributed unless it is first approved by the commission.
 2. No school shall use any name for advertising or publicity purposes other than the name shown upon its

application for accreditation. No school shall apply to itself, either as part of its name or in any other manner, the designation of college or university unless in fact it has been approved as such by the state agency having jurisdiction. Nor shall any school advertise or imply that it is recommended, endorsed or approved by the commission, but an accredited school may indicate that it has been accredited by the Missouri Real Estate Commission to conduct courses of education in real estate subjects to qualify applicants for licensure examination.

3. No school shall provide any misleading information to the public or to prospective students. Information is deemed to be misleading when there is a distinct possibility that it will deceive the class of persons whom it is intended to influence. No school shall make any warranties or guarantees that a student will pass the real estate license examination by taking its course.

4 CSR 250-7.020 Application for Accreditation

(1) Any person or entity seeking accreditation or renewal of accreditation for a school offering a real estate course of study for licensure examination in Missouri shall submit the following:

- (A) A completed application on a form provided by the commission and accompanied by supporting documents specified in the application;
- (B) A complete curriculum outline showing all subjects offered and the times allocated to each subject;
- (C) Application for approval of an administrator on a form provided by the commission and accompanied by verification of educational qualifications and previous experience and other supporting documents required by the application;
- (D) Application for approval of each instructor on a form provided by the commission and accompanied by supporting documents specified in the application;
- (E) Affidavit as to ownership or lease of premises and proof of compliance with applicable zoning laws and codes;
- (F) A copy of the form of student contract used by the school and a statement itemizing the tuition for each course offered and all additional fees and charges;
- (G) Statement of school policy required by 4 CSR 250-7.010(1)(H)2.;
- (H) Copies of all advertising material; and
- (I) A copy of the school's final examination and the correct answers. No school may provide a certificate of completion to a student who has not satisfactorily completed an in-class final examination of at least fifty (50) questions within the final twelve (12) hours of the course.

(2) The commission reserves the right, at its discretion, to hold any application for a reasonable length of time for investigation.

4 CSR 250-7.030 Correspondence Courses

(1) Any correspondence course offered by an accredited school must first be approved by the commission. Schools seeking approval of a correspondence course shall submit the following:

- (A) A detailed outline of the course and a copy of all course materials to be supplied to students;
- (B) A description of how the school proposes to accomplish a display of the student's knowledge of the required subjects;
- (C) All homework assignments and their directions for completion;
- (D) A sample of the examinations to be given, including answers; and
- (E) The criteria for satisfactory completion of the course, which shall include at least two (2) proctored examinations and a classroom review session at least six (6) hours in length which the student must attend after the first proctored examination and before course completion, all of which must be completed no later than six (6) months after enrollment.

4 CSR 250-7.040 Accreditation; Renewals; Fees

(1) When the commission has approved a school for accreditation based upon its application and submissions, a letter of accreditation shall be delivered to the school. Accreditation is granted and limited to the specific ownership, administration, location and curriculum of the school, all as shown in its application.

(2) The administrator of each accredited school immediately shall report to the commission in writing any changes in the information contained in the application for accreditation or the exhibits appended to the application. This change shall be deemed acceptable to the commission if no action has been taken after ten (10) days from the date the report of change is received by the commission.

(3) Accreditation of a school and approval of its administrator and instructors shall be valid for one (1) year and shall be renewable annually on or before June 30 of each year upon submission of acceptable renewal applications on forms provided by the commission.

(4) The commission may deny, revoke or suspend accreditation of a school or approval of an administrator or instructor if it is determined that the school, administrator or instructor is not in compliance with the license law or these rules, that the level of performance or credentials of the school, administrator or instructor are not in the public interest, that the application or supporting material from a school, administrator or instructor contains any false or misleading statement or substantial misrepresentation, or that the school's passing score for first-time examinees falls below the state average score more than three (3) months in any accreditation period.

(5) Schools, administrators or instructors applying for initial accreditation approval or renewal shall pay the following fees with their respective applications:

- (A) Initial School Accreditation Fee\$200.00;
- (B) Annual Renewal of Accreditation Fee\$100.00;
- (C) Initial Approval of Administrator Fee\$100.00;
- (D) Initial Approval of Instructor Fee.....\$ 50.00;
- and
- (E) Annual Renewal of Approval of Administrator or Instructor Fee\$ 25.00.

(6) The fees of section (5) are nonrefundable and shall be paid in the same manner as other fees payable to the commission.

4 CSR 250-7.050 Prohibition of Advertising or Solicitation

(1) No administrator, instructor or any other person connected in any way with a school shall cause, permit or otherwise encourage the communication of any advertising or solicitations of any kind, whether written or oral, designed to induce or encourage students, enrolled or to be enrolled at the school, to enter into employment with any broker; nor shall the school or any of its personnel permit any person or entity to recruit students enrolled at the school by means of coercion, pressure tactics, free offerings, rebates or similar means.

Chapter 8-Business Conduct and Practice

4 CSR 250-8.010 Place of Business

(1) Every resident broker, except those who have placed their licenses on inactive status or those not actively engaged in real estate business, shall maintain a regularly established place of business in this state, which shall be open to the public during usual business hours or at regular stated intervals. No salesperson may be associated with a broker not maintaining a regularly established place of business or a broker not actively engaged in the real estate business. This rule does not apply to a broker-salesperson or to broker-partners, broker-associates or broker-officers of a firm which maintains a regular place of business.

(2) A broker's business sign of sufficient size to identify it and bearing the name under which the broker or the broker's firm is licensed, or the regular business name, shall be displayed outside of the broker's regular place of business.

4 CSR 250-8.020 Broker Supervision and Improper Use of License and Office

(1) Individual brokers, designated brokers, and office managers/supervising brokers shall be responsible for supervising the real estate related activities including the protection of any confidential information as defined under 339.710.8, RSMo of all licensed and unlicensed persons associated with them, whether in an individual capacity or through a corporate entity, association or partnership. A broker shall not be held responsible for inadequate supervision if-

- (A) A licensed or unlicensed person violates a provision of Chapter 339, RSMo or the rules for it in conflict with the supervising broker's specific written policies or instructions;
- (B) Reasonable procedures have been established to verify that adequate supervision was being performed;
- (C) The broker, upon learning of the violation, attempted to prevent or mitigate the damage;
- (D) The broker did not participate in the violation;
- (E) The broker did not ratify the violation; and
- (F) The broker did not attempt to avoid learning of the violation.

(2) A broker shall not permit licensed and unlicensed persons affiliated with the broker to-

- (A) Establish and carry on real estate brokerage business

for their own benefit, directly or indirectly, where the broker's primary interest is the receipt of a fee or other valuable consideration for the use of the broker's license by others; or

- (B) Where the broker has no control or only nominal control of the business affairs conducted under the broker's license or is only nominally associated with the business.

(3) Appointments of designated agents and designated transaction brokers under section 339.820, RSMo shall be entered into by the designated broker or office manager/supervising broker on behalf of that broker and affiliated licensees.

(4) Appointments of designated agents and designated transaction brokers under section 339.820, RSMo shall be made in a written agreement for brokerage services or other written notice to the client or party, unless such appointment is presumed pursuant to section 339.820.1, RSMo.

(5) Individual brokers, designated brokers, and office managers/supervising brokers shall not be considered to be a dual agent or a transaction broker solely because such broker makes an appointment under section 339.820, RSMo. However, when such broker supervises the licensees for both sides of a transaction, that broker will be a dual agent or a transaction broker upon learning confidential information about either party to a transaction or upon being consulted by any licensee involved in the transaction. Also, when the broker supervises the licensee representing or assisting one (1) side of the transaction and personally represents or assists the other side, that broker will be a dual agent or a transaction broker.

4 CSR 250-8.030 Branch Offices

(1) If a broker maintains a branch office(s), each shall be operated under the same name and license as the parent office and every such place of business shall comply with the provisions of 4 CSR 250-8.010.

(2) Project sales, leasing or management offices maintained on-site in an apartment building, development project, duplex, apartment complex, court, office building, shopping center or industrial development are not required to be registered as branch offices.

(3) A branch office shall be under the direct supervision of either a licensed broker, broker-salesperson or a broker-partner, broker-associate or broker-officer of the principal licensed broker who shall devote full time to management of the branch office; provided that nothing contained in this rule shall be construed to relieve the principal licensed broker from responsibility for all brokerage activities conducted at the branch office. Nothing in this section shall be construed as to prohibit the office manager from engaging in the listing and sale of real estate.

(4) A broker shall notify the commission, in writing, within ten (10) days after opening or making any change in the address or managing licensee of a branch office.

4 CSR 250-8.040 Sales Manager

(1) Any licensee who acts in the capacity of a sales manager or assistant sales manager for the broker shall be required to hold a broker-salesperson license or to be licensed as a broker-partner, broker-associate or broker-officer of the broker.

4 CSR 250-8.050 Clerical Personnel

(1) The activities of unlicensed clerical or office employees of a broker shall be limited to the duties normally attributed to those positions. Unlicensed persons shall not do, or attempt to do, any of the activities set out under 339.010.1.(1)-(10), RSMo.

4 CSR 250-8.060 Display of License

(1) Every broker shall maintain his/her license and the licenses of all associates in the regular place of business or branch office(s). The licenses shall be displayed to any member of the public on request.

4 CSR 250-8.070 Advertising

(1) For the purpose of these rules, advertising shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one (1) or more licensees and the public; it shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, display or group ads in telephone directories and billboards.

(2) Disclosure.

(A) A licensee shall not advertise to sell, buy, exchange, rent, lease or manage property in any manner indicating that the offer to sell, buy, exchange, rent, lease or manage the property is being made by a private party not engaged in the real estate business. If any part of the offering, negotiation or completion of a real estate transaction is to be handled by, through or under the direction or supervision of a licensee, directly or indirectly, the licensee shall not advertise or represent to the public in any manner that the property is for sale or lease by the owner.

(B) If a licensee advertises to sell, buy, exchange, rent, lease or manage property in which the licensee has an interest, and if the property is not listed by a brokerage entity, the advertisement shall contain, in a prominent fashion, one (1) of the following:

1. By owner-broker;
2. By owner-salesperson; or
3. By owner-agent.

(C) Nothing in this section shall be construed to eliminate the disclosure requirements found elsewhere in these rules, including those contained in 4 CSR 250-8.110.

(3) No real estate advertisement by a licensee shall show only a post office box number, telephone number or street address. Every advertisement of real estate by a licensee shall contain the broker's regular business name or the name under which the broker or the broker's firm is licensed and shall indicate that the party advertising is a real estate broker and not a private party.

(4) Every advertisement of real estate by a licensee where the licensee has no interest in the real estate shall be made under the direct supervision and in the name of the broker or firm who holds the licensee's license. If the licensee's name or telephone number, or both, is used in any advertisement, the advertisement also shall include the name and telephone number of the broker or firm who holds the licensee's license.

(5) No licensee shall advertise to buy, sell, rent, lease, manage or exchange property in any manner that indicates, directly or indirectly, any unlawful discrimination against any individual or group because of race, color, religion, national origin, ancestry, sex, handicap or familial status.

(6) **Guaranteed Sales.**

(A) As used in this rule, the term guaranteed sales plan includes, but is not limited to: i) any plan in which a seller's real estate is guaranteed to be sold, or ii) any plan where a licensee or anyone affiliated with a licensee will purchase a seller's real estate if it is not purchased by a third party in the specified period of a listing or within some other specified period of time.

(B) Any written advertisement by a licensee of a guaranteed sales plan shall include a statement advising the seller that if the seller is eligible, costs and conditions may apply and advising the seller to inquire of the licensee as to the terms of the guaranteed sales agreement. This information shall be set forth in print at least one-fourth (1/4) as large as the largest print in the advertisement.

(C) Any radio or television advertisement by a licensee of a guaranteed sales plan shall include a conspicuous statement advising if any conditions and limitations apply.

(D) Every guaranteed sales agreement must be in writing and contain all of the conditions and other terms under which the property is guaranteed to be sold or purchased, including the charges or other costs for the service or plan, the price for which the property will be sold or purchased and the approximate net proceeds the seller may reasonably expect to receive.

4 CSR 250-8.080 Franchises; Trade Names; Insignia

(1) If a broker maintains any business relationship or affiliation, whether by franchise agreement, contract or otherwise, with another organization and uses the name, trade name or insignia of the other organization in any manner in real estate advertising, the broker shall furnish the commission a copy of the franchise agreement or contract and such other related information as the commission may require.

(2) If the franchise agreement or contract under which a broker is operating provides that the franchisor or owner of the trade name or insignia has no legal liability for the actions of the broker using the trade name or insignia, the broker shall include in all listing agreements, contracts for sale and closing statements a clear and explicit statement to that effect in type reasonably calculated to gain the attention of the reader of the document.

4 CSR 250-8.090 Brokerage Service Agreements

(1) A licensee shall not advertise or place a sign upon any prop-

erty offering it for sale or lease to prospective customers unless the broker holds a currently effective written listing agreement or other written authorization signed by all owners.

(2) A licensee shall not show residential property unless a broker holds a currently effective written seller's/lessor's agency agreement, seller's/lessor's transaction brokerage agreement, or other written authorization to show.

(3) **Seller's/Lessor's Agency (Sale/Lease Listing) Agreement.**

(A) Every written listing agreement or other written agreement for brokerage services shall contain all of the following:

1. The price;
2. The commission to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. A statement which permits or prohibits the designated broker from offering subagency;
7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;
8. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;
9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or transaction brokers;
10. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the seller's agency agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;
11. The signatures of all owners and the listing broker or listing agent as authorized by the broker;
12. The type of listing;
13. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property; and
14. All other terms and conditions under which the property is to be sold, leased or exchanged.

(B) The agreement shall contain no provision requiring an owner to notify the broker of intent to cancel the listing after the expiration date.

(C) Any change to the listing agreement or other written agreement for brokerage services must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written listing agreement or other written agreement for brokerage services to the owner of the property at the time the signature of the owner is obtained.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with an owner if the licensee

knows, or has reason to know, that the owner has a written unexpired exclusive brokerage service agreement as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) No licensee shall make or enter into a net listing agreement for the sale or lease of real property or any interest in real property; this agreement is defined as one that stipulates a net price to be received by the owner with the excess over that price to be received by the broker as commission.

(G) A listing agreement or other written agreement for brokerage services may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

(4) Buyer's/Tenant's Agency Agreement.

(A) Every written buyer or tenant authorization shall contain all of the following:

1. A description of the type of property sought by the buyer or tenant;
2. The commission or fee to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. A statement which permits or prohibits the designated broker from offering subagency;
7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;
8. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;
9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to seller's agents and/or transaction brokers;
10. A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the buyer's agency agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;
11. The signatures of the buyers or tenants and the broker or agent as authorized by the broker;
12. The type of agreement; and
13. All other terms and conditions prescribed by the buyers or tenants.

(B) The agreement shall contain no provision requiring a buyer or tenant to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any change to the agreement or other written authorization must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement or other authorization to the buyer or ten-

ant at the time the signatures are obtained and a copy of the written authorization shall be retained in the broker's office.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) A buyer or tenant agency agreement may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original buyer or tenant agency agreement.

(5) Transaction Brokerage Agreement Between Broker and Seller/Lessor.

(A) Every written seller's or lessor's transaction brokerage agreement shall contain all of the following:

1. The price;
2. The commission to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. The signatures of all owners and the broker or affiliated licensee as authorized by the broker;
7. The type of agreement;
8. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;
9. All other terms and conditions under which the property is to be sold, leased or exchanged;
10. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or other transaction brokers; and
11. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(B) The agreement shall contain no provision requiring an owner to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any change to the agreement must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement to the owner of the property at the time the signature of the owner(s) is obtained.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with an owner if the licensee knows, or has reason to know, that the owner has a written unexpired exclusive brokerage service agree-

ment as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

- (F) No licensee shall make or enter into a net agreement for the sale or lease of real property or any interest in real property; this agreement is defined as one that stipulates a net price to be received by the owner with the excess over that price to be received by the broker as commission.
- (G) Transaction brokerage agreements may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

(6) Transaction Brokerage Agreement Between Broker and Buyer/Tenant.

- (A) Every written buyer's or tenant's transaction brokerage agreement shall contain all of the following:
 1. A description of the type of property sought by the buyer or tenant;
 2. The commission or fee to be paid (including any and all bonuses);
 3. A definite beginning date;
 4. An expiration date;
 5. The licensee's duties and responsibilities;
 6. The signatures of the buyers or tenants and the broker or affiliated licensee as authorized by the broker;
 7. The type of agreement;
 8. All other terms and conditions prescribed by the buyers or tenants;
 9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to seller's agents and/or other transaction brokers; and
 10. A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.
- (B) The agreement shall contain no provision requiring a buyer or tenant to notify the broker of intent to cancel the agreement after the expiration date.
- (C) Any change to the agreement must contain the initials of all parties.
- (D) The licensee shall give a legible copy of every written agreement or other authorization to the buyer or tenant at the time the signatures are obtained and a copy of the agreement shall be retained in the broker's office.
- (E) A licensee shall not negotiate or enter into a brokerage service agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement

which will take effect after the expiration of the current agreement.

- (F) Transaction brokerage agreements may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

(7) Other Written Authorization. Written authorization to show residential property without an agency agreement or transaction brokerage agreement with the owner/landlord must contain all of the following:

- (A) A definite beginning date;
- (B) An expiration date;
- (C) The signatures of all owners or landlords and the broker or licensee as authorized by the broker;
- (D) The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;
- (E) Permission to enter and show the property;
- (F) The commission or fee to be paid (including any and all bonuses);
- (G) All other terms and conditions prescribed by the owners or landlords;
- (H) Any change to the written authorization must contain the initials of all parties; and
- (I) A statement which confirms that the owner or landlord received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the other written authorization, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

4 CSR 250-8.095 Brokerage Relationship Disclosure

(1) Licensees acting with or without a written agreement for brokerage services pursuant to 339.710 to 339.860, RSMo, are required to disclose such relationships in the following instances and manner:

- (A) Seller's/Landlord's Agent or Subagent.
 1. A licensee acting as an agent or subagent of the seller/landlord shall disclose this agency status no later than the first showing to a buyer/tenant who is not represented by or working with another licensee pursuant to 339.710 to 339.860, RSMo.
 2. If the buyer/tenant is represented by another licensee, the disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.
 3. If the seller's/landlord's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the seller's/landlord's agent.
 4. In a cooperative sale/lease between a seller's/landlord's agent and a licensee working with a buyer/tenant as a transaction broker, the seller's/landlord's agent shall make disclosure of this agency status to the buyer/tenant and also to the licensee assisting the buyer/tenant upon first contact with each respective party.
 5. In a contemplated real estate transaction where no

contact occurs with the buyer/tenant, their agent or transaction broker, the seller's/landlord's agent shall disclose this agency status to the buyer's/tenant's agent or transaction broker when first contact is established pursuant to paragraph (B)5. or (E)5. of this section.

6. If the landlord's agent is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), make the disclosure described herein on behalf of the landlord's agent;

(B) Buyer's/Tenant's Agent or Subagent.

1. A licensee acting as an agent or subagent of the buyer/tenant shall disclose this agency status no later than the first showing to a seller/landlord who is not represented by or working with another licensee pursuant to 339.710 to 339.860, RSMo.
2. If the seller/landlord is represented by another licensee, the disclosure may be made to the seller/landlord or their agent upon first contact with the seller/landlord or their agent, whichever occurs first.
3. If the buyer's/tenant's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the buyer's/tenant's agent.
4. In a cooperative sale/lease between a buyer's/tenant's agent and a licensee working with a seller/landlord as a transaction broker, the buyer's/tenant's agent shall make disclosure of this agency status to the seller/landlord and also to the licensee assisting the seller/landlord upon first contact with each respective party.
5. In a contemplated real estate transaction where no contact occurs with the seller/landlord, their agent or transaction broker, the buyer's/tenant's agent shall establish first contact with the seller's/landlord's agent or transaction broker and disclose this agency status prior to the presentation of an offer to exchange, purchase, rent, or lease.
6. If the landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

(C) Dual Agent.

1. A licensee acting as a dual agent in a real estate transaction shall disclose this agency status immediately upon its occurrence to all parties of a real estate transaction.
2. In a non-designated agency transaction, the disclosure made by the licensee procuring the buyer/tenant (selling licensee) shall serve as disclosure for the listing licensee and designated broker.
3. A designated broker who becomes a dual agent and does not personally represent any of the parties in a designated agency transaction shall not be required to make disclosure of this agency status provided written consent was given by all parties to the real

estate transaction pursuant to 339.750.1, RSMo;

(D) Transaction Broker Assisting Seller/Landlord.

1. A licensee assisting a seller/landlord as a transaction broker who has not been deemed a transaction broker pursuant to 339.710(19)(c), RSMo, shall disclose this brokerage relationship no later than the first showing to buyer/tenant who is not represented by or working with another licensee pursuant to 339.710 to 339.860, RSMo.
2. If the buyer/tenant is represented by another licensee, this disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.
3. If the licensee has not entered into a written transaction brokerage agreement with the seller/landlord, the licensee shall disclose the licensee's transaction broker status to the seller/landlord upon establishing such relationship with the seller/landlord.
4. In a cooperative sale between a seller's/landlord's transaction broker and a licensee working with a buyer/tenant as a transaction broker, the seller's/landlord's transaction broker shall make disclosure of this brokerage relationship status to the buyer/tenant and also to the licensee assisting the buyer/tenant upon first contact with each respective party.
5. In a contemplated real estate transaction where no contact occurs with the buyer/tenant, or their agent or transaction broker, the seller's/landlord's transaction broker shall disclose this brokerage relationship status to the buyer's/tenant's agent or transaction broker when first contact is established pursuant to paragraph (B)5. or (E)5. of this section.
6. If the landlord's transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), RSMo, make the disclosure described herein on behalf of the landlord's transaction broker;

(E) Transaction Broker Assisting Buyer/Tenant.

1. A licensee assisting a buyer/tenant as a transaction broker who has not been deemed a transaction broker pursuant to 339.710(19)(c), RSMo, shall disclose this brokerage relationship no later than the first showing to a seller/landlord who is not represented by or working with another licensee pursuant to 339.710 to 339.860, RSMo.
2. If the seller/landlord is represented by another licensee, this disclosure may be made to the seller/landlord or their agent upon first contact with the seller/landlord or their agent, whichever occurs first.
3. If the licensee has not entered into a written transaction brokerage agreement with the buyer/tenant, the licensee shall disclose the licensee's transaction broker status to the buyer/tenant upon establishing such relationship with the buyer/tenant.
4. In a cooperative sale/lease between a buyer's/tenant's transaction broker and a licensee working with a seller/landlord as a transaction broker, the buyer's/tenant's transaction broker shall make disclosure of this brokerage relationship status to the

seller/landlord and also to the licensee assisting the seller/landlord upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the seller/landlord, their agent or transaction broker, the buyer's/tenant's transaction broker shall establish first contact with the seller's/landlord's agent or transaction broker and disclose this brokerage relationship status prior to the presentation of an offer to exchange, purchase, rent, or lease.
 6. If the landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;
- (F) Transaction Broker Pursuant to 339.710(19)(c), RSMo.
1. A licensee who becomes a transaction broker pursuant to 339.710(19)(c), RSMo, shall disclose this transaction broker status immediately upon its occurrence to all parties to the real estate transaction to be confirmed in writing prior to the execution of the contract.
 2. The disclosure of the licensee procuring the buyer (selling licensee) shall serve as disclosure for the listing licensee and designated broker.
 3. A designated broker who becomes a transaction broker and does not personally represent any of the parties in a designated agency transaction shall not be required to make disclosure of this status provided written consent was given by all parties to the real estate transaction.

4 CSR 250-8.096 Brokerage Relationship Confirmation

(1) Licensees acting with or without a written agreement for brokerage services pursuant to 339.710 to 339.860, RSMo, are required to have such relationships confirmed in writing by each party to the real estate transaction on or before such party's first signature to the real estate contract. Nothing contained herein prohibits the written confirmation of brokerage relationships from being included or incorporated into the real estate contract.

(A) Written confirmation must-

1. Identify the licensee's brokerage relationship;
2. Identify the source or sources of compensation;
3. Confirm that the brokerage relationships, if required by rule or regulation, were disclosed to the seller/landlord and/or buyer/tenant or their respective agents and/or transaction brokers no later than the first showing, upon first contact, or immediately upon the occurrence of any change to that relationship;
4. Confirm the seller's/landlord's and buyer's/tenant's receipt of the Broker Disclosure Form prescribed by the commission;
5. Be signed and dated by the seller/landlord and buyer/tenant. If the landlord has entered into a written property management agreement pursuant to 4 CSR 250-8.200-4 CSR 250-8.210, the landlord shall not be required to sign the written confirmation; and

6. Be signed and dated by the disclosing licensees on or before the contract date. If a landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200-4 CSR 250-8.210, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), sign the written confirmation on behalf of the landlord's agent or transaction broker.

(B) A signed copy shall be given to the seller/landlord and buyer/tenant and a signed copy shall be retained by the disclosing licensee's broker. If any party to the real estate transaction refuses to sign the confirmation, the licensee working with that party pursuant to 339.710 to 339.860, RSMo, shall set forth, sign and date a written explanation of the facts of refusal and the explanation shall be retained by the licensee's broker.

4 CSR 250-8.097 Broker Disclosure Form

(1) At the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the licensee shall provide that person with a written copy of the current Broker Disclosure Form prescribed by the Missouri Real Estate Commission. In any event, a licensee shall provide the party that has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the Broker Disclosure Form upon obtaining any personal or financial information or before the signing of a brokerage service agreement, whichever occurs first. If a landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), provide a tenant with a written copy of the current Broker Disclosure Form prescribed by the commission on behalf of the landlord's agent or transaction broker.

(2) The brokerage relationship marked as offered on the Broker Disclosure Form shall correspond to the written office policy adopted by the designated broker pursuant to 339.760.1, RSMo.

4 CSR 250-8.100 Offers

(1) Every licensee shall make certain that all of the terms and conditions authorized by the principal in a transaction are specified and included in an offer to sell or buy and shall not offer the property on any other terms. Every written offer shall contain the legal description or property address, or both, and city where the property is located, or in the absence of, a clear description unmistakably identifying the property.

(2) Every licensee shall promptly tender to the seller or seller's agent every written offer to purchase and shall promptly tender to the buyer or buyer's agent any counteroffer made by the seller, including any back-up contracts properly identified as such, and upon procuring a proper acceptance of an offer to purchase shall promptly deliver copies of the same, signed by both buyer and seller, to each party to the transaction. A buyer or seller must be promptly advised when an offer or counteroffer has been rejected.

(3) Any change to a contract shall be initialed by all buyers and sellers. Acceptance of each fully executed contract shall include the date at which final agreement was reached either by 1) specific acknowledgement of final acceptance date; or 2) date of the last signature or initial to the contract.

4 CSR 250-8.110 Licensee's Interest in Transactions; Relationship with Parties

(1) A licensee shall not acquire an interest in, sell, buy, exchange, rent or lease any real estate, directly or indirectly, without first making the licensee's status as a licensee known in writing to the other parties in the transaction.

(2) Before buying, exchanging, selling or leasing real estate for another party, the licensee shall disclose in writing any ownership which a licensee has or will have and the licensee's status as a licensee to all parties to the transaction.

(3) A licensee shall not advise against or discourage the use of the services of an attorney by any party in any real estate transaction.

(4) Directed or Controlled Business.

(A) Definitions.

1. The term settlement service includes any service provided in connection with a real estate sale, lease, trade, exchange or settlement including, but not limited to, the following: mortgage or other financing, title searches, title examinations, the provision of title certificates, title insurance, hazard insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest, fungus, mechanical or other inspections, services rendered by a real estate agent or broker, and the handling of the processing and closing or settlement.
2. The term controlled business arrangement means an arrangement in which a real estate licensee, or an associate of a real estate licensee, has either an affiliate relationship with or a direct or beneficial ownership interest of more than one percent (1%) in a provider of settlement services.
3. The term associate means one who has one (1) or more of the following relationships with a real estate licensee:
 - A. A spouse, parent or child of a real estate licensee;
 - B. A corporation or business entity that controls, is controlled by or is under common control with a real estate licensee;
 - C. An employer, officer, director, partner, franchisor or franchisee of a real estate licensee; or
 - D. Anyone who has an agreement, arrangement or understanding with a real estate licensee, the purpose or substantial effect of which is to enable the real estate licensee to refer settlement business to benefit financially from the referrals of that business.

(B) A licensee who has a controlled business arrangement with a provider of settlement services and who, directly or indirectly, refers business to that provider or affirmatively influences the selection of that provider shall

disclose the arrangement to the person whose business is referred or influenced. This disclosure shall be given on a separate form and shall be signed by the person whose business is referred or influenced. The disclosure shall be given and signed before or at substantially the same time that the business is referred or the provider is selected. The licensee shall retain a copy of the signed form. The form shall be in at least ten (10)-point type and shall contain the following language:

DISCLOSURE OF REFERRAL OF BUSINESS

I understand that (Name of Real Estate Licensee) has an affiliate relationship with or owns an interest in (Name of Company to Which Business is Being Referred) and is also recommending that I employ this company for (Type of Service).

I realize that (Name of Real Estate Licensee) may earn financial benefits from my use of this company.

I understand that I am not obligated to use this company, and may select a different company if I wish to do so.

This form has been fully explained to me.

(Date) _____

(Signature of Person Whose Business is Being Referred) _____

The form may be modified to describe more accurately the nature of the service, the referring entity and the entity receiving the referral, provided that its content and meaning are not changed in substance.

(C) A licensee, directly or indirectly, shall not require a party to a real estate sale or lease to use and shall not condition the performance of real estate brokerage services on the use by a party of any particular provider of settlement services.

(5) A licensee shall comply in all respects with the requirements of the federal Real Estate Settlement Procedures Act and corresponding regulations, in transactions governed by the law and regulations.

(6) An "as is clause" written into a contract for the sale of real estate does not relieve a licensee of the requirements of section 339.100.2(2), RSMo.

4 CSR 250-8.120 Deposits to Escrow or Trust Account

(1) All money received by a licensee as set out in section 339.100.2(1), RSMo shall be deposited in the escrow or trust account maintained by the broker no later than ten (10) banking days following the last date on which the signatures or initials, or both, of all the parties to the contract are obtained, unless otherwise provided in the contract. Earnest money received prior to acceptance of a written contract may be deposited into the escrow account by the broker with the written authorization of the party(ies) providing the funds.

(2) A licensee shall immediately deliver to the broker with whom

affiliated all money received in connection with a real estate transaction in which the licensee is engaged.

(3) The escrow or trust account maintained by a broker, as required by the license law, shall be a checking account in a bank, savings and loan or credit union. If the escrow or trust account maintained by a broker is an interest-bearing account, the broker shall disclose in writing to all parties to the transaction that the account is interest-bearing and the disclosure shall indicate who is to receive the interest.

(4) Each broker shall deposit into the escrow or trust account all funds coming into the broker's possession as set out in section 339.100.2(1), RSMo, including funds in which the broker may have some future interest or claim and including, but not limited to, earnest money deposits, prepaid rents, security deposits, loan proceeds and funds paid by or for the parties upon closing of the transaction. No broker shall commingle personal funds or other funds in the broker's escrow account except to the extent provided by section 339.105.1, RSMo. Commissions payable must be removed from the escrow account at the time the transaction is completed. After the transaction is completed, interest payable shall be disbursed to the appropriate party(ies) from the escrow account no later than ten (10) banking days following the receipt of the next statement of the escrow account. When the licensee receives all interest earned, interest payable to a licensee must be removed from the escrow account within ten (10) banking days following the receipt of the next statement of the escrow account.

(5) In addition to the notification required by section 339.105.2, RSMo, each broker shall consent upon the request of the commission or its agent to the examination and audit of the broker's escrow or trust account by the commission or its agent. As part of the consent, each broker, upon opening any additional account(s), shall execute a form entitled Consent to Examine and Audit Escrow or Trust Account.

(6) Each check written on an escrow account or each corresponding check stub, or other record of disbursement of funds from the account and each deposit ticket shall indicate the related real estate transaction(s). Each check written on an escrow account for commission shall be made payable to the licensee to whom the commission is owed or to the firm's general operating account.

(7) The designated broker and the branch office manager shall be responsible for the maintenance of the escrow account and shall ensure the brokerage's compliance with the statutes and rules related to the brokerage escrow account(s).

4 CSR 250-8.130 Earnest and Escrow Money; Disputes

(1) A broker shall not accept any note, non-negotiable instrument or anything of value not readily negotiable as earnest money in a transaction without the signed, written consent of the owner of the real estate.

(2) In the event a dispute arises concerning the return or forfeiture of any monies or other valuables held by a broker in escrow, the broker shall continue to retain the money or valuables in escrow until a written release is obtained from all par-

ties consenting to its disposition or until a civil action is filed to determine its disposition at which time payment may be made into the court. However, in the absence of a pending civil action or written release and upon passage of sixty (60) days from the date of the dispute, a broker may disburse escrow monies or valuables to either party to the transaction based upon a good faith decision by the broker that the opposite party has failed to perform as agreed, but this disbursement shall only be made after the broker has given fifteen (15) days' written notice by certified mail to all parties concerned at their last known address setting forth the broker's proposed action. The commission will not take disciplinary action against a broker who in good faith disburses escrow monies or other valuables pursuant to this rule; however, nothing in this rule relieves a broker of any civil action which the damaged party may file in a court of law nor does this rule require a broker to remove money or other valuables from the broker's escrow account when disposition is disputed by the parties.

4 CSR 250-8.140 Standard Forms

(1) When acting as a broker in a transaction, a broker may use current standardized forms including, but not limited to, contracts, agency disclosures, property management agreements, listing agreements, warranty deeds, quit claim deeds, trust deeds, notes, security instruments and leases, prepared or approved by the broker's counsel or by the counsel for a trade association of which the broker is a member or associate member, or by a Missouri state or local bar association and may complete them by filling in blank spaces to show the parties, property description and terms necessary to close the transaction the broker has procured.

(2) A real estate broker shall not make a separate charge for completing any standardized forms and shall not prepare those forms for persons in transactions in which s/he is not acting as a broker, unless the broker is one of the parties to the contract or instrument or owns or is employed by an escrow company or closing firm which is handling the closing.

4 CSR 250-8.150 Closings and Closing Statements

(1) Every broker shall deliver or cause to have delivered to the buyer and the seller in every real estate transaction where s/he acts as a broker, at the time the transaction is consummated, a complete, accurate and detailed statement showing all material financial aspects of the transaction, including the true sale price, the earnest money received, any mortgages or deeds of trust of record, all money received by the broker in the transaction, the amount, and payee(s) of all disbursements made by the broker. If the buyer and seller are represented by different brokers, it shall be the responsibility of the listing broker to deliver, or cause to have delivered, the closing statements. If a broker personally handles a closing, on the day of closing the broker shall sign and date the closing statement.

(2) A broker may arrange for a closing to be administered by a title company, an escrow company, a lending institution or an attorney, in which case the broker shall not be required to sign the closing statement; however, it shall remain each broker's responsibility to require closing statements to be prepared, to review the closing statements to verify their accuracy and to deliver the closing statements to the buyer and the seller or

cause them to be delivered. The detailed closing statement shall contain all material financial aspects of the transaction, including the true sale price, the earnest money received, any mortgages or deeds of trust of record, all monies received by the broker, closing agent or company in the transaction, the amount, and payee(s) of all disbursements made by the broker, closing agency or company and the signatures of the buyer and seller.

(3) The brokers for the buyer and the seller shall retain legible copies of both buyer's and seller's signed closing statements.

(4) A salesperson shall not conduct the closing of any real estate transaction except under the direct supervision of the manager or broker with whom the salesperson is associated.

4 CSR 250-8.155 Closing a Real Estate Firm

(1) Voluntary Closing.

(A) Unless specifically approved otherwise by the commission, a real estate brokerage firm shall be closed in the following manner. The individual broker or the designated broker shall-

1. Notify the commission in writing upon closing of the firm. The following information must be submitted on a form provided by the commission:
 - A. The date of the firm's closing;
 - B. The location where the records and files will be stored for a minimum of three (3) years;
 - C. The name, address and phone number of the custodian who will be storing the records and files; and
 - D. A list of all pending transactions, stating the names, addresses and telephone numbers of all buyers, sellers or property owners;
2. Notify all licensees associated with the firm in writing of the effective date of closing. The licenses of any licensees associated with the firm at the time of closing must be returned with the closing statement;
3. Notify all current listing buyer, or tenant agreement and management contract clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the firm will close. All listing, buyer, tenant and management clients must be advised in writing that they may enter into a new listing, buyer, tenant or management agreement with the broker of their choice;
4. Remove all advertising signs from all properties which were listed with or managed by the firm. Arrange to cancel all advertising in the name of the firm, including office signs and telephone listing advertisements;
5. Maintain all escrow or trust accounts until all monies are transferred to a title company, an escrow company or an attorney for closing of the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds;
6. Arrange for pending contracts to be closed by a title company, a lending institution, an escrow company or an attorney. In the case of a sale, transfer or merger of an existing brokerage, the acquiring broker may close the pending transactions acquired from the selling broker after having first obtained the

express written consent of all parties to the transactions. Notify all parties involved in pending transactions as to the name, address and telephone number of the closing agent. Notify the commission of the name, address and telephone number of the closing agent; and

7. Sign the closing form stating that all of the previously mentioned terms have been met.

(2) Revocation/Suspension.

(A) Sole-Proprietorship/Individual Broker. Upon the revocation or suspension of a broker's license, the broker shall-

1. Cease all brokerage business immediately upon the effective date of the suspension or revocation order;
2. Notify the commission of the location where records and files will be stored, as well as the name, address and phone number of the custodian who will be storing the records and files. In case of revocation, storage for all records and files is to be arranged for a minimum of three (3) years. In case of suspension, storage is to be arranged for the duration of the suspension;
3. Notify, if the license of the broker has been suspended, all licensees associated with the firm and return all licenses held by the broker to the commission;
4. Notify all current listing, buyer or tenant agreement, and management contract clients in writing advising of the date the firm will close or suspend activity, and that they may enter into a new listing, buyer or tenant agreement or management agreement with the firm of their choice;
5. Remove all advertising signs from all properties except the firm's office which were listed with or managed by the firm;
6. Cancel or suspend all advertising and telephone listing advertisements. In case of suspension, post a notice on the outside of the office in a prominent location clearly visible to the public which cites all applicable violations. In case of revocation, the licensee shall remove all office signs visible to the public;
7. Maintain all escrow or trust accounts until all monies are transferred to a title company, a lending institution, an escrow company or an attorney for closing the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds;
8. Arrange for pending contracts to be closed by a title company, a lending institution, an escrow company or an attorney. Notify all parties involved in pending transactions as to the name, address and telephone number of the closing agent. Notify the commission in writing of the name, address and telephone number of the closing agent;
9. Accept no compensation related to the real estate transactions during the suspension except compensation for acts which were performed during the period in which the broker was properly licensed;
10. Notify, in writing, all listing and management clients as well as parties and co-brokers to existing contracts, advising of the date of suspension. All listing and management clients must be advised that they

- may enter into a new listing or management agreement with the firm of their choice;
11. Answer no telephones in a suspended broker's office in any manner to imply that the broker is a currently active real estate firm;
 12. Return all property belonging to others which is held by the broker;
 13. Comply with all of the terms of (2)(A)1.-12. on or before the effective date of revocation or suspension; and
 14. Provide the commission with an affidavit stating that all of the previously mentioned terms have been met.
- (B) Corporation, Association or Partnership. Upon the revocation or suspension of a broker's license issued to a corporation, association or partnership, the designated broker shall-
1. Cease all brokerage business immediately upon the effective date of the suspension or revocation order;
 2. Notify the commission of the location where the broker's records and files will be stored, as well as the name, address and phone number of the custodian who will be storing the records and files. In case of revocation, storage for all records and files must be arranged for a minimum of three (3) years. In the case of suspension, storage for all records and files is to be arranged for the duration of the suspension;
 3. Return, if both the license of the designated broker and the firm have been suspended, all licenses to the commission;
 4. Notify all listing and management clients in writing advising of the effective date of the suspension or revocation, and that they may enter into a new listing or management agreement with the firm of their choice;
 5. Remove all advertising signs from all properties which were listed with or managed by the firm;
 6. Maintain all escrow or trust accounts until all monies are transferred to a title company, a lending institution, an escrow company or an attorney for closing the transactions, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds;
 7. Compensate only for acts which were performed during the period in which the partnership, corporation or association was properly licensed;
 8. Arrange for all pending contracts to be closed by a title company, a lending institution, escrow company or an attorney. Notify all parties involved in pending transactions as to the name, address and telephone number of the closing agent. Notify the commission of the name, address and telephone number of the closing agent;
 9. Comply with all of the terms of paragraphs (2)(B)1.-8. on or before the effective date of revocation or suspension; and
 10. Provide the commission with an affidavit stating that all of the previously mentioned terms have been met.
- (3) Closing as a Result of Death or Disability. Upon the death or disability of a broker in which the affairs of the broker, partnership, corporation or association cannot be carried on, the following procedures shall apply:
- (A) Sole-Proprietorship/Individual Broker.
1. All licensees associated with the broker must cease all brokerage activity until their licenses have been transferred to another broker.
 2. The administrator or executor of the broker's estate or the legal representative of the broker may conclude pending business, according to the provisions of section 339.040.8, RSMo.
 3. The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in section (1) for voluntary closing;
- (B) Corporation, Partnership or Association. Upon the death or incapacity of one (1) or more of the licensed broker-officers, broker-partners or broker-associates of a real estate corporation, partnership or association in which the affairs of the broker, partnership, corporation or association cannot be carried on, the following procedures shall apply:
1. The administrator or executor of the broker's estate or the legal representative of the broker may conclude pending business, according to the provisions of section 339.040.8, RSMo;
 2. The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in section (1) for voluntary closing;
 3. The commission must be notified immediately of any change in the designated broker; and
 4. If a new designated broker is named, the new broker must submit an affidavit to the commission attesting that all steps under the voluntary closing procedure are completed within thirty (30) days after the date of the prior broker's death or disability; and
- (C) In all previously mentioned cases, the administrator or executor of the estate or the legal representative of the broker shall arrange to retain the business records of the broker for a period of at least three (3) years, in compliance with 4 CSR 250-8.160.

4 CSR 250-8.160 Retention of Records

(1) Every broker shall retain for a period of at least three (3) years true copies of all business books; accounts, including voided checks; records; contracts; brokerage relationship agreements; closing statements and correspondence relating to each real estate transaction that the broker has handled. The records shall be made available for inspection by the commission and its authorized agents at all times during usual business hours at the broker's regular place of business. No broker shall charge a separate fee relating to retention of records.

(2) Every broker shall retain for a period of at least three (3) years true copies of all property management agreements, correspondence or other written authorization relating to each real estate transaction relating to leases, rentals or management activities the broker has handled. The broker must also retain all business books, accounts and records unless these records are released to the owner(s) or transferred to another broker by written detailed receipt or transmittal letter agreed to in writing by all parties to the transaction.

4 CSR 250-8.170 General

(1) Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

4 CSR 250-8.200 Management Agreement Required

(1) When managing property a licensee shall not rent or lease, offer to rent or lease, negotiate, or offer or agree to negotiate, the rent or lease, list or offer to list for lease or rent, assist or direct in procuring of prospects calculated to result in the lease or rent, assist or direct in the negotiation of any transaction calculated or intended to result in the lease or rent, or show that property to prospective renters or lessees unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

(2) A licensee who is managing the leasing or rental of real estate shall not act as an agent in the sale or exchange of that real estate unless the licensee complies with the requirements of 4 CSR 250-8.090.

4 CSR 250-8.210 Management Agreements

(1) Every written property management agreement or other written authorization between a broker and the owners of the real estate shall-

- (A) Identify the property to be managed;
- (B) State the amount of fee or commission to be paid and when the fee or commission will be paid;
- (C) Specify whether security deposits and prepaid rents will be held by the broker or the owner;
- (D) Contain the beginning date of the agreement;
- (E) Provide the terms and conditions for termination of the property management agreement by the broker or the owner of the property;
- (F) Include the licensee's duties and responsibilities;
- (G) Contain a statement which permits or prohibits the designated broker from offering subagency (not applicable for transaction broker agreements);
- (H) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;
- (I) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;
- (J) Include specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to tenant's agents and/or transaction brokers;
- (K) Contain a statement which confirms that the landlord received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the brokerage relationship agreement, or b) upon the licensee obtaining any personal or financial information,

whichever occurs first; and

(L) Contain the signatures of all the owners and the broker or affiliated licensee as authorized by the broker.

(2) The licensee shall give to the owner or the owner's authorized agent a legible copy of every written property management agreement or other written authorization at the time the signature of the owner is obtained; and the licensee's broker shall retain a copy.

4 CSR 250-8.220 Escrow or Trust Account and a Separate Property Management Escrow Account Required

(1) A broker shall establish and maintain a separate escrow account(s), to be designated as a property management escrow account(s), for the deposit of current rents and money received from the owner(s) or on the owner's(s') behalf for payment of expenses related to property management. Before making disbursements from a property management escrow account, a broker shall ensure that the account balance for that owner's(s') property(ies) is sufficient to cover the disbursements.

(2) All security deposits held by a broker shall be maintained, intact, in an escrow account other than the property management account(s), pursuant to section 339.105, RSMo, unless the owner(s) have agreed otherwise in writing.

(3) All money received by a broker in connection with any property management must be deposited within ten (10) banking days to the escrow or trust account maintained by the broker.

(4) A property manager shall immediately deliver to the supervising broker all money received in connection with any property management.

(5) The property management escrow account(s) maintained by the broker shall be a checking account in a bank, savings and loan or credit union.

(6) Fees or commissions payable to a broker must be withdrawn from a property management escrow account at least once a month unless otherwise agreed in writing. Any rent paid in advance as a deposit for the last month's rent or as rent other than the current month's rent held by a broker shall be deposited in the property management escrow account unless otherwise agreed to in writing.

(7) In addition to the notification required by section 339.105.2, RSMo, each broker, upon the request of the commission or its agent, shall consent to the examination and audit of the broker's property management escrow account(s) by the commission or its agent. As part of the consent, each broker shall execute a form presented to him/her by the commission or its agent entitled Consent to Examine and Audit Escrow or Trust Account.

(8) Each check written on an escrow account, or each corresponding check stub, or other record of disbursement of funds from the account and each deposit ticket shall indicate the related transaction. Each check written on an escrow account for licensee fees or commission shall be made payable to the licensee who is owed the fee or commission or to the firm's general operating account.

4 CSR 250-8.230 Security Deposits: Disputes

(1) The return of security deposits to lessees and disputes with lessees are governed by section 535.300, RSMo and any other applicable law.

Chapter 9-Disciplinary Proceedings

4 CSR 250-9.010 Complaints

(1) A complaint against a licensee shall be in writing setting forth in clear and concise language the alleged violation, on forms provided by the commission, sworn to by the person making the complaint and submitted to the commission. Upon its own motion, the commission may initiate a complaint against a licensee.

(2) Each complaint received under this rule will be logged and maintained by the commission. The log will contain a record of each complainant's name and address (if given), the name and address of the subject(s) of the complaint, the date each complaint is received by the commission, a notation whether the complaint resulted in its dismissal by the commission or in formal charges being filed with the Administrative Hearing Commission, and the final disposition of the complaint. The log shall be a closed record of the commission.

(3) Each complaint received under this rule shall be acknowledged in writing to the complainant (if known). The complainant (if known) shall be notified of the final disposition of the complaint.

(4) This rule shall not be deemed to limit the commission's authority to file a complaint with the Administrative Hearing Commission charging a licensee with any actionable conduct or violation, whether any complaint exceeds the scope of the acts charged in a preliminary complaint filed with the commission and whether any complaint has been filed with the commission.

(5) The commission interprets this rule to exist for the benefit of those members of the public who submit complaints to the commission. This rule is not deemed to protect or benefit those licensees, or other persons against whom the commission has instituted or may institute administrative or judicial proceedings concerning possible violations of the provisions of Chapter 339, RSMo.

4 CSR 250-9.020 Investigation

(1) Upon receipt of a complaint in proper form, the commission shall investigate the actions of the licensee against whom the complaint is made. In conducting an investigation, the commission, in its discretion, may request the licensee under investigation to answer the charges in writing and to produce relevant documentary evidence and may request the licensee to appear before it. A copy of any written answer of the licensee shall be furnished to the complainant.

4 CSR 250-9.030 Dismissal of Complaint

(1) If an investigation reveals that a complaint does not involve a violation of the license law or these rules of the commission, the complaint will be dismissed by the commission and the par-

ties involved will be so advised.

(2) Withdrawal of a valid, legitimate complaint against a licensee as the result of restitution of money or property to the complainant, or other corrective action by the licensee, shall not be grounds for dismissal of a complaint by the commission except at its discretion.

4 CSR 250-9.040 Violations

(1) If an investigation discloses a probability that the acts of the licensee may be those to justify disciplinary action, the matter will be presented to the Administrative Hearing Commission for determination.

4 CSR 250-9.050 Action by the Commission

(1) Upon final ruling by the Administrative Hearing Commission that the acts of a licensee constitute a violation of the license law or these rules, the commission shall proceed to revoke or suspend the license of the offending licensee or take other authorized action as it shall deem appropriate.

(2) The commission may require a person who formerly held a license but had the license placed on probation, suspended or revoked, to meet and perform certain conditions before reinstating or reissuing a license to this person. These conditions may include, but shall not be limited to, satisfactory completion of certain educational requirements, passage of a written examination of the type given to applicants for licensure, personal appearances before and periodic reports to the commission and restitution of money or property.

Chapter 10-Continuing Education

4 CSR 250-10.010 Requirements

(1) Each real estate licensee who holds an active license shall complete during the two (2)-year license period prior to renewal, as a condition precedent to license renewal, a minimum of twelve (12) hours of real estate instruction approved for continuing education credit by the Missouri Real Estate Commission. An active license is any license issued by the commission except those which have been placed on inactive status by a broker or salesperson, pursuant to 4 CSR 250-4.040(3) and 4 CSR 250-4.050(6). Failure to provide the commission evidence of course completion as set forth shall constitute grounds for not renewing a license. For purposes of 4 CSR 250-10, an hour is defined as sixty (60) minutes, at least fifty (50) minutes of which shall be devoted to actual classroom instruction and no more than ten (10) minutes of which shall be devoted to a recess. No credit will be allowed for fractional hours.

(2) At least three (3) hours of the twelve (12) hours of approved instruction shall consist of one (1) of the following core curriculum courses, each of which shall include thirty (30) minutes of instruction on current laws and regulations:

- (A) Missouri laws governing the transfer of real property;
- (B) Broker supervision and escrow account management;
- (C) Fair housing;
- (D) Property management; or
- (E) Commercial brokerage.

(3) The balance of the twelve (12) hours of instruction shall consist of courses which have been approved for continuing education credit by the Missouri Real Estate Commission. The commission will approve those courses which are determined by it to be those through which real estate licensees can remain qualified and can become more competent to provide a higher level of public service and protection.

(4) Effective October 1, 1998, any person who has been issued an original resident, nonresident or reciprocal salesperson license shall, prior to the date of expiration of the original salesperson license, satisfactorily complete his/her twelve (12) hours of continuing education instruction in a classroom course of study entitled Missouri Real Estate Practice; and any person who has been issued an original resident, nonresident or reciprocal broker license prior to completing the course entitled Missouri Real Estate Practice must complete his/her Missouri Real Estate Practice course prior to the date of expiration of the original broker license. No licensee shall be granted continuing education credit for completing Missouri Real Estate Practice after the expiration date of the initial license.

(5) Individual licensees may receive continuing education credit for classroom courses taken in Missouri or another state which have not been previously submitted by the sponsor for approval, provided course content, instructor qualifications and course administration are acceptable to the commission. Applications for nonpreapproved course credit must be on a form prescribed by the commission, accompanied by a nonrefundable evaluation fee of ten dollars (\$10).

(6) The commission may waive all or part of the continuing education requirements upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for the following causes:

- (A) Serious physical injury or illness;
- (B) Active duty in the armed services for an extended period of time;
- (C) Residence outside the United States;
- (D) Membership in the Missouri Bar;
- (E) Licensee is at least eighty (80) years of age;
- (F) Licensee has been licensed continuously since 1942;
- (G) Member of the Missouri Senate or House of Representatives at any time during the renewal period to which the waiver applies; and
- (H) Member on the Missouri Real Estate Commission during any portion of the renewal period to which the waiver applies.

(7) The following offerings will not be considered by the commission to meet Missouri continuing education requirements even though these offerings may be approved by states with which Missouri enters into continuing education reciprocity:

- (A) Training or education not applicable to Missouri real estate practice;
- (B) Training or education in office and business skills such as typing, speedreading, memory improvement, report writing, personal motivation, salesmanship, sales psychology and time management;
- (C) Sales promotions or other meetings held in conjunction with general real estate brokerage activity;
- (D) Meetings which are a normal part of in-house training;
- (E) That portion of any offering devoted to meals or refresh-

ments;

- (F) Sales or brokerage prelicensure education; provided, however, the education will satisfy the continuing education requirement for the license period during which the license was issued to either a new, delinquent or reactivating licensee. New licensees will not receive continuing education credit for prelicense education after September 30, 1998;
- (G) Any course or program that is less than three (3) hours in duration; and
- (H) Taped, videotaped and similar electronically reproduced instruction, unless presented in an approved course under direct, in-person supervision of an approved instructor and unless no more than fifty percent (50%) of the course time consists of electronically reproduced instruction, except as provided under 4 CSR 250-10.075.

(8) Hours obtained in excess of the twelve (12) hours required during each license renewal period may not be carried forward to satisfy the requirements for any subsequent renewal period.

(9) Except as provided under 4 CSR 250-10.075, a licensee must be physically present in the classroom during one hundred percent (100%) of the actual classroom instruction. A school, at its discretion, may allow a student to be absent up to ten percent (10%) of the required hours but only for reasons of personal illness, illness or death in the student's immediate family or hazardous road conditions.

(10) Credit will be given to a licensee for completing a specific course only once during a license renewal period.

(11) Time spent as an instructor may be counted as classroom attendance for an approved instructor who is also a licensee. The credit may be gained by an instructor only once for each course or substantially similar course offered during any renewal period.

(12) No part of any course for continuing education shall be used to solicit memberships in organizations, recruit licensees for affiliation with any organization or advertise the merits of any organization.

4 CSR 250-10.020 Sponsors

(1) All continuing education courses and instructors must be sponsored by a person, institution or organization responsible for the formation and administration of courses. An instructor also may be a sponsor. Each person involved directly or indirectly in the sponsorship of a course, or who participates, or has an interest, financial or otherwise, in its operation, shall be at least twenty-one (21) years of age and a person or entity of integrity, responsibility and good moral character. All applications for continuing education course sponsorship shall be on a form prescribed by the commission and must be submitted by the sponsor at least ninety (90) days before the date the sponsor's first course offering is scheduled.

(2) The commission may deny, revoke, suspend or place on probation the accreditation of a sponsor if at any time it is found that the sponsor does not satisfy the requirements stated in section (1).

4 CSR 250-10.030 Classroom Course Approval

(1) No course or program for continuing education credit shall be announced or advertised until it is approved by the commission, in writing, for credit.

(2) Applications for approval of core curriculum courses required by 4 CSR 250-10.010(2) and the Missouri Real Estate Practice course required by 4 CSR 250-10.010(4) must contain course outlines that closely follow the curriculum prescribed by the commission.

(3) All applications for course approval shall be submitted by the sponsor at least ninety (90) days prior to the date the course is expected to be offered. Applications shall be submitted on a form prescribed by the Missouri Real Estate Commission and the commission will respond in writing to all requests for course approval within sixty (60) days of receipt of a properly completed application. The commission will either assign a course number or other identification to a course when it is approved or will notify the applicant of the grounds for the course not being approved, as provided in section (6).

(4) Course approval will be for the duration of the license period for which approval is sought.

(5) Course approval applications shall be accompanied by a nonrefundable fee of twenty-five dollars (\$25) per hour of continuing education credit being applied for.

(6) If the commission determines that a proposed course does not meet prescribed standards or if the proposed course does not adequately reflect and present current real estate knowledge toward the goal of public protection and service, notice in writing specifying the deficiencies will be provided to the sponsor.

(7) Instructors must teach all courses in close adherence to the outline on file with the commission. In the event a substantive change is proposed, the sponsor must file a revised course outline on a form prescribed by the commission at least thirty (30) days in advance of the scheduled course offering. The nonrefundable fee for filing a course revision shall be fifteen dollars (\$15) per credit hour. Approval in writing from the commission must be received prior to implementation of any substantive course change.

(8) Dates, times and location(s) of classroom course offerings shall be submitted to the commission at least ten (10) days prior to each course offering.

(9) In any given calendar day, no classroom course(s) shall exceed six (6) hours in length, and no continuing education sponsor shall issue to a licensee course completion certificate(s) for more than six (6) hours credit. A half-hour or longer break must be given to students after four (4) hours for any course(s) exceeding four (4) hours in a given day.

4 CSR 250-10.040 Classroom Course Instructor Approval

(1) All continuing education course offerings must be conducted by an approved instructor. All instructors shall possess a bachelor's degree from an accredited institution of higher education with a major in a field of study directly related to the subject mat-

ter of the course being taught or a combination of education and experience equivalent.

(2) The sponsor of a continuing education course shall submit an application for approval of each instructor on a form prescribed by the commission at least ninety (90) days prior to the date the course is scheduled to be offered. Each application shall be accompanied by a nonrefundable fee of fifteen dollars (\$15) per instructor. When more than ten (10) instructor applications for a given course are submitted simultaneously, no fee will be charged for applications in excess of ten (10). Instructor approval will be for the duration of the license period for which approval is sought.

(3) The commission will notify the sponsor within sixty (60) days that the instructor has been approved and certified, or the grounds upon which approval is being denied.

4 CSR 250-10.050 Physical Facilities for Classroom Courses

- (1) Physical facilities used in continuing education courses shall-
- (A) Be designed primarily for classroom purposes or designed for multipurpose use in the case of meeting halls and convention facilities;
 - (B) Contain proper seating and writing surfaces;
 - (C) Be properly lighted;
 - (D) Be properly ventilated;
 - (E) Be reasonably free from distracting pedestrian traffic;
 - (F) Be reasonably free of sound and light disturbances; and
 - (G) Have adequate public address facilities.

4 CSR 250-10.060 Advertising

(1) Advertising for an approved course shall contain, in clear and unambiguous terms, a statement indicating the number of hours of continuing education credit for which the course is approved and state the correct title of the course as it is stated in the course approval letter provided by the commission.

(2) Advertising of an approved course offering shall clearly state the times, dates, locations and the fee which will be charged as well as the refund policy which will be employed in the case of cancellation by the licensee or inability of the licensee to complete the course.

(3) Advertising for an approved individual study course shall clearly describe all course requirements that must be met by the licensee, including satisfactory completion of a final examination.

(4) No continuing education advertisement may use the words real estate commission approval has been applied for, or similar language to suggest that approval is pending. Unless a course or course revision has been approved in writing by the real estate commission, it may not be advertised for continuing education credit.

(5) All advertising copy must be submitted to the commission no later than thirty (30) days in advance of a course offering and may not be disseminated until written approval of the advertising copy is obtained.

4 CSR 250-10.070 Records

(1) Each licensee shall be responsible for providing the commission, at the time of license renewal, a true copy of a certificate of course completion in a form prescribed by the commission, but only if verification of course completion, at the time of license renewal, has not been provided by the course sponsor.

(2) The sponsor, at the close of any classroom course, shall hand to each individual licensee who has satisfactorily completed the course, a certificate of course completion in a form prescribed by the commission.

(3) Within ten (10) days of the completion of a course, the sponsor shall submit to the commission on a form prescribed by the commission, a list of those licensees who have satisfactorily completed the course with their license numbers. The commission, at its discretion, may extend the ten (10)-day period.

(4) Sponsors of continuing education courses shall maintain, for a period of not less than three (3) years, complete records of course attendance and student certification and shall supply duplicate certificates to licensees upon request. A reasonable charge may be made for duplicate certificates. Sponsors of individual study courses, in addition, shall maintain records of all final examinations and examination administration. Sponsors shall make required records available for review by the commission during normal business hours or shall send them to the commission by certified mail within ten (10) days of written request.

(5) For any classroom course attended by more than twenty-five (25) students, the sponsor shall have a person other than the instructor present to assist in administrative duties including, but not limited to, keeping records of attendance, preparing and distributing certificates and assuring that physical facilities meet the requirements of 4 CSR 250-10.

4 CSR 250-10.075 Individual Study Courses

(1) A licensee may complete all or part of the continuing education requirement through the use of videotaped or audiotaped courses that have been approved by the commission for continuing education credit. All applications for course approval shall conform with 4 CSR 250-10.030(1)-(6) and must also include the following, except that an individual study course may be conditionally approved by the commission prior to submittal of the tape and fee in subsection (1)(A):

(A) A videotape or audiotape presentation of one hundred fifty (150) minutes and a non-refundable tape review fee of one hundred dollars (\$100) for each three (3)-hour course submitted;

(B) A course introduction statement setting out the dates during which the course is approved by the commission, the terms and conditions under which the final examination will be administered, including review of the completed workbook and a list of specific learning objectives referenced to the content of the final examination;

(C) A bound workbook designed so that the licensee will be substantially engaged throughout the taped presentation in entering specific information as directed by the tape;

(D) A blank form, prescribed by the commission, for the licensee to complete, sign and return to the sponsor within three (3) months of course enrollment requesting administration of the final examination and attesting to the fact that the licensee has completed the course as directed;

(E) Any additional information or material to be supplied to the licensee;

(F) For each three (3)-hour course, two (2) final examination forms (primary and alternate) of thirty (30) multiple-choice items each, with no duplication of items and a key showing correct responses. Examinations must reflect sound test development practices and must measure knowledge of the subject matter of the entire course as set out in the learning objectives; and

(G) A statement setting out the methods the sponsor will use to assure that examinations are maintained securely.

(2) Within one (1) month after a licensee mails to the sponsor a statement of course completion described in subsection (1)(D), the sponsor shall administer the approved examination under the supervision of a proctor appointed by the sponsor. The examination shall be administered at a time and a location agreed upon between the sponsor and the licensee. Prior to examination administration, the licensee must show positive photo identification and a completed workbook. A proctor may administer the final examination to no more than five (5) licensees at one (1) administration.

(3) Within ten (10) days following administration of the final examination, the sponsor shall deliver to a licensee who achieves a score of at least seventy percent (70%) a certificate of course completion on a form prescribed by the commission. In the event the licensee does not achieve a score of seventy percent (70%), the sponsor shall contact the licensee and arrange for a one (1)-time reexamination, a course review, or both, to be completed within one (1) month of the first administration at a time and place agreed upon between the sponsor and the licensee. Any fees to be charged for reexamination and review must be set out in the information provided at enrollment, under subsection (1)(B).

(4) The commission may deny, revoke, suspend or place on probation the approval of an individual study course if it is determined that the course materials do not meet acceptable standards of form or content, or if the audiotape or videotape supplied to licensees is of substandard production or performance quality.

4 CSR 250-10.080 Investigation and Review

(1) The commission may investigate approved or proposed course offerings by conferring with sponsors and instructors, by visiting with or without prior notice, or by surveys to participants, instructors and sponsors.

(2) The commission may deny, suspend, revoke or place on probation the accreditation of any sponsor, instructor or course if it determines that the sponsor, instructor or course has failed to maintain reasonable standards, is in violation of the license law or these rules, makes any false statement or substantial misrepresentation in applying for accreditation, or demonstrates a level of performance or credentials not in the public interest.

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